

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 735 of 1999

Allahabad this the 27th day of September 1999

Hon'ble Mr. S.K.I. Naqvi, Member (J)

Shri Badan Singh, Divisional Accounts Officer,
son of Shri Man Das, working in the office of
the Executive Engineer, Public Works Department,
Provisional Division, Mathura(U.P.), R/o 159-D,
Krishna Nagar, Mathura(U.P.).

Applicant

By Advocate Shri Rakesh Verma

Versus

1. The Comptroller & Auditor General of India,
New Delhi.
2. The Accountant General-II, (A & E), Uttar Pra-
desh, Sarojini Naidu Marg, Allahabad U.P.
3. The Executive Engineer, Public Works Department,
Provisional Division, Mathura(U.P.)

Respondents

By Advocates Shri Amit Stnalekar
Shri K.P. Singh

ORDER :

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

As per the case stated in the O.A.
while posted as Divisional Accounts Officer Grade
I in the Office of Executive Engineer, P.W.D., Mathura
the applicant was transferred from Mathura to Banda
in the same capacity. Being aggrieved of this

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transfer order, the applicant has come up seeking relief that the respondent no.2 i.e. Accountant General-II(A&E) U.P. be directed to re-consider the transfer of the applicant to any of the four choice station named by him in his option and the transfer order in question i.e. annexure A-1 to the O.A., be withdrawn and cancelled.

2. The applicant has assailed this transfer order mainly on the grounds that his options for transfer was not considered and he has been posted at distant place whereas he requested to be transferred at the place of option, namely Mathura, Agra Hathras(Mahamayanagar) and Aligarh. He has also assailed the transfer order on the ground that he has been transferred to a distant place whereas he being a member of weaker section, should have been transferred to a place nearby his native place. The applicant has also pleaded a compassionate ground of illness of his wife.

3. The respondents have filed their C.A. and controvert the pleadings of the applicant.

4. So far as the question of posting at the place of choice is concerned, the position is quite settled that it is for the transferring authority to consider favourably the options placed by the Officer under transfer but this submission of option has no binding effect and the transferring authority has not bound to accommodate the officer

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under transfer to a place of his choice under option.

5. The applicant has also emphasised that he being from weaker section, therefore, he should have been transferred to any station near to his native place. On this point, he has referred the decision in B.S.Verma Vs. Union of India and Others delivered on 18.9.92. According to which "as far as the question of posting and transfer of the member of the S.C./S.T. is concerned, this stand on a different footing and unless there are strong and exceptional reason of public interest and administrative exigencies, the transfer of S.C./S.T. official away from their native place, should not be made." The applicant wishes to take advantage of this finding but it is strange that he is nowhere specifically mentioned his native place in his pleading or in any document filed by him. A simple mention of 'resident of' is not sufficient to conclude that his native place is also the same to which he is mentioned to be 'resident of'. In this regard, there is clear guide line in (1997) 3 S.C.C. page 87 Luxmi Narain Mehar Vs. Union of India, wherein it has been held that the instructions in respect of transfer of the officers belonging to S.C., are not absolute but subject to administrative exigencies and the authority has power to transfer him to any place when the administrative need arises. Under the circumstances, this plea also fails.

6. The applicant has also pleaded for compassionate ground of illness of his wife and has filed the papers to show that his wife is under medical treatment at Mathura and his transfer from Mathura to Banda will effect the proper medical treatment of his wife. It is a matter which is to be considered by the department concerned and cannot be taken for judicial finding.

7. The applicant has also mentioned that the transfer has not materialised and he is still continuing at Mathura. The respondents ^{have} had specifically pleaded and filed document in support thereof to establish that the applicant has already been relieved on 07.7.99 and the next incumbent to the post has taken over.

8. With the above position in view, I do find force in the contention of the applicant and the O.A. is dismissed accordingly, without cost. However, in view of the alleged illness of wife of the applicant, it is directed that when the applicant takes over at Banda, if he has not taken over so far, and gets his absence regularised as per rule, ^{then} he may move the competent authority for change of his transfer who shall accommodate the applicant when vacancy so arises at any station of option of the applicant submitted at the time of ^{last} general transfer or during the next general transfer.

S. M. Singh

Member (J)

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