

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1077 of 1999

Allahabad this the 05th day of August, 2002

Hon'ble Mr.C.S. Chadha, Member (A)

Bhanu Prakash Srivastava, aged about 43 years, Son of Sri Kamla Prasad, resident of Military Farm, Allahabad.

Applicant

By Advocate Shri K.P. Singh

Versus

1. Union of India through the Dy. Director General, Q.M.G.'s Branch, Army Headquarters, R.K. Puram, West Block, New Delhi.
2. Officer Incharge, Military Farm, Allahabad.
3. Sri Ram Baran, Officer Incharge, Military Farm, Allahabad.

Respondents

By Advocate Shri G.R. Gupta

O R D E R ( Oral )

By Hon'ble Mr.C.S. Chadha, Member (A)

The case of the applicant is that he was working as Veterinary Dresser under the control of Veterinary Officer, Military Farm, Allahabad, and he was transferred in June, 1989. He has alleged that he has been transferred in a malafide manner because he refused to obey illegal orders of the Officer-in-charge. Learned counsel for the applicant has also drawn my attention to several letters written

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by the Veterinary Officer to the Officer-in-Charge requesting him not to transfer the Veterinary Dresser.

2. In their counter-affidavit the respondents have averred that in compliance of the Fifth Pay Commission report it was necessary to reduce and re-organise the man power in the Military Farm and wind up some of the Military Farms to reduce the cost. In order to do so the applicant was transferred to Jammu (Karu) in April, 1999 but on his representation his transfer was changed to Meerut. According to the respondents, an order was sent to the applicant to apply for T.A./D.A. and to proceed on transfer to Meerut which he refused to accept. They have averred in para-10 of the Counter-affidavit that on 13.09.99 the applicant stood relieved of his charge. He was also sent his T.A./D.A. vide a letter dated 11.09.99 enclosing a cheque of 13.09.99. Learned counsel for the applicant has stressed the fact that the applicant has never handed over the charge. He was injured in an accident and was in hospital when he was relieved behind his back. In fact the applicant claim is that he was not relieved but he actually worked after 23.09.99 for which he has not been paid salary. However, I find from the records that on 23.09.99 he was reported for duty, but it was not accepted, and, therefore, his claim that he worked after 23.09.99, is not correct and

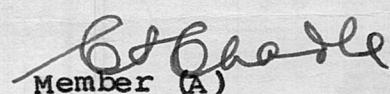
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also that he continued to work after being discharged from hospital is not borne out by facts.

3. The main question to be seen in such cases is whether there are any malafides on the part of the respondents in passing the transfer order. There is nothing on the face of the record to prove malafides because it was open for the Govt. to transfer an employee after his tenure is over and if reorganisation of the department was necessary. Apparently the applicant had worked at his present place of posting for a period of 18 years and adequate reason has been shown for his transfer. The impugned order dated 10.09.99 itself mentions the fact that the applicant did not comply with the instructions given on 08.06.99 and did not apply for transfer T.A. advance. It is not open to an official to continue to refuse to comply with the orders of the Government and not move to his place of posting. His earlier request to change his place of posting from Karu (Jammu) to a nearer place, was sympathetically considered and agreed to. In fact his application to the authorities to change his posting from Karu (Jammu) to a nearer place itself shows that he was not against the transfer per sé. The malafides being now alleged were not mentioned earlier when he asked for change.

4. In the circumstances mentioned above, I find no malafides in the transfer order. The O.A. is accordingly rejected. No order as to costs.

  
Member (A)