

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 869 of 2000

Allahabad this the 03rd day of April, 2001

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

Manik Chand Son of Late Sri Ghasitelal Chaudhary, aged about 48 years, resident of at present posted as Divisional Accounts Officer Grade I in the Office of the Executive Engineer, Minor Irrigation Division, Sureka Puram Colony, Mirzapur.

Applicant

By Advocate Shri R.P. Singh

Versus

1. Union of India through the Secretary, Finance, New Delhi.
2. Comptroller & Auditor General of India, New Delhi.
3. Accountant General II(A & E) Allahabad.
4. Executive Engineer, Minor Irrigation Division, Sureka Puram Colony, Mirzapur.

Respondents

By Advocates Shri Amit Sthalekar
Shri K.P. Singh(respondent no.4)
Shri S.K. Mishra

O_R_D_E_R (Oral)

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

While posted as Divisional Accounts Officer Minor Irrigation, Mirzapur, the applicant-Manik Chand was transferred to Construction Division, P.W.I., Askat Pithoragarh vide order dated 02.12.1999, copy of which has been annexed as annexure A-3 to the O.A. Being aggrieved of this order, the applicant made representation to the departmental authorities, but without any

success and now he has come up before the Tribunal seeking relief to the effect that the order be quashed. This order has been assailed mainly on the ground of being arbitrary and against the rules and departmental instructions in this regard, as much as being a mid term transfer order that to within one and half year from the date of joining at that station.

2. The respondents have contested the case. The respondents no.1, 2 and 3 have filed composite counter-reply while respondent no.4 has filed a separate counter-reply, but the main common ground is that the order has already been implemented. The next incumbent Vimal Kumar has taken over as Divisional Accounts Officer, Minor Irrigation Division, Mirzapur and also that the applicant has already been relieved w.e.f. afternoon of 21.12.1999. It has also been contended that the rules and direction referred, are not mandatory but only suggestive ^{as} ~~for~~ to be followed as far as possible under given circumstances, in the nature of guide line.

3. Heard learned counsel for the parties and perused the record.

4. This impugned order is dated 02.12.1999 and now it is April, 2001 and, therefore, the grounds regarding transfer during mid academic session and premature, for having passed within a period of three years, ^{are} ~~been~~ no more valid. During the course of arguments ^{has} it come out that main question remains whether the

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applicant was actually relieved on 21.12.1999 or not and the question of his service status right from that date till today. These are only matters of fact without involving in legal controversy and they are to be resolved by the competent authority in the department concerned. It is a matter of judicial notice that now Pithoragarh, the place to which the applicant has been transferred vide order dated 02.12.1999, comes within newly created State of Uttaranchal. Shri Amit Sthalekar, learned counsel for respondents no.2 and 3 as ~~well~~ i.e. Comptroller and Auditor General, of India, New Delhi and ~~also~~ ^{the} Accountant General II(A & E), Allahabad, mentions that these authorities are still functioning as competent authority in respect of State of Uttaranchal.

5. For the above position in view, I find that no interreference is needed in the impugned transferred order and the competent authority in the respondents establishment is directed to pass appropriate order regarding the service status and the emoluments to be paid to the applicant during the period ~~for which~~ he did not join at transferred place, under impugned transfer order, for ~~which~~ applicant to make representation within a week. The O.A. is decided as above. No order as to costs.

See mag

Member (J)

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