

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 19TH DAY OF JANUARY, 2001

Original Application No.935 of 2000

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

V.V.Singh,S/o Shri H.P.Singh
R/O 52,Krishna Nagar, Allahabad
At present posted as Junior Engineer(Civil)
in Allahabad Central Circle,C.P.W.D
841,University Road,Allahabad.

... Applicant

(By Adv: Shri R.Prasad)

Versus

1. Superintending Engineer
Coordination Circle(Civil)
Central P.W.D.
I.P.Bhawan, New Delhi.
2. Chairman
Hard Case Scrutiny Committee/
Chief Engineer(ODZ)
C.P.W.D,New Delhi
3. Superintending Engineer
Allahabad Central Circle
841,university Road,
Allahabad.
4. Union of India through its
Directorate General of Works
C.P.W.D.
Nirman Bhawan, New Delhi.

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of A.T.Act 1985 the applicant has challenged the order of transfer dated 9.6.2000 by which he has been transferred from Allahabad to Mau as Junior Engineer. The applicant has also challenged the order dated 1.8.2000 by which his representation against the aforesaid transfer has been rejected by Superintending Engineer. In this case time for filing counter affidavit was granted by a stop order on 18.12.2000,however CA has not been filed. In the circumstances the application is being disposed of on the

basis of material available on the record.

Learned counsel for the applicant has challenged the order of transfer on the ground that the applicant has not completed six years period at Allahabad and the order of transfer is illegal and against the policy of the government. It appears that the applicant was earlier posted at Delhi where he remained for 13 years. He was transferred to Allahabad Central Circle in 1995. Thus he has already stayed at Allahabad for more than five years. It is well settled that the outer limit of posting at a place is not mandatory it is only ^{directory} ~~contradictory~~ provision which for good reasons may be avoided by the competent authority. The learned counsel also challenged the order on the ground that his wife is posted at Allahabad in a Uttar Pradesh State Govt. school. Learned counsel has placed before me the guideline which is an extract from 'Swamy's Hand Book 1996. The relevant para 7 reads as under:-

7. Where one spouse is employed under the Central Government and the other spouse is employed under the state government:

"The Central Government spouse may apply to the Competent authority who may post the person to the station, or if there is no post in that station, to the State where the other spouse serves:

2. These are only illustrative and not exhaustive Cases not covered by the guidelines have to be dealt with in the spirit of the guidelines and the objective of enabling a husband and wife to lead a normal family life and ensuring the education and welfare of their children- as far as possible and within the constraints of administrative convenience"

Thus from the aforesaid rule it is clear that the applicant could be posted in that state where the wife is working. As already found earlier applicant has already

served for more than five years at Allahabad he has now been transferred to Mau which is within the state of Uttar Pradesh and situated about 150 kms from Allahabad. The applicant has already represented to the Competent Authority but his request has not been accepted. The learned counsel for the applicant has also challenged his transfer on the ground that others who are staying at Allahabad for the longer period in some cases since 1993 have not been transferred but applicant whose name has not been shown in the readiness list ^{has been transferred}. This point was raised in paragraph 8 of the representation but it was not dealt with the Authority. In fact the Competent Authority has not given any reason in order dated 1.8.2000 for rejecting the representation of the applicant.

In these facts and circumstances as on record there appears no good administrative reason for transferring the applicant from Allahabad. The approach of the respondents become discriminatory and based on arbitrariness and transferring persons by 'pick & choose' policy. Applicant has filed (Annexure 4) which is a recommendation in favour of the applicant by the Executive Engineer of Allahabad. He has recommended for retaining applicant at Allahabad. In the order dated 1.8.2000 nothing has been recorded about these material facts.

In these circumstances this OA is partly allowed. The matter is remitted to the Superintending Engineer, Respondent no.1, Co-Ordination ^{Circle} Circle(Civil), Central ^{P.W.D.} P.W.D, I.P.Bhawan, New Delhi who shall consider the representation of the applicant afresh including the letter of the Executive Engineer recommending stay of transfer and pass a reasoned order within a month from the date a copy of this order is filed. To avoid delay it shall be open to the applicant to

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file a fresh copy of the recommendation of the Executive Engineer alongwith the copy of this order.

For a period of six weeks or till the representation is decided whichever is earlier if the applicant has not been relieved, he shall be allowed to continue at Allahabad.

There will be no order as to costs.


VICE CHAIRMAN

Dated: 19.1.2001

Uv/