

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALIAHABAD.

O.A. No./T.A. No. 636 of 2002

Date of decision 8.08.2002

R.K. Anand

Applicant(s)

In person

Counsel for the
Applicant (s)

VERSUS

Union of India and Others

Respondent (s)

Sri R. Sharma (absent due to strike)

(Sri Rajiv Ranjan, Jt CDA, Allahabad.)

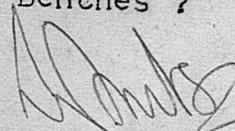
Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. Gen K K Sovastav V.C. Member (A)

Hon'ble Mr. _____ Member ()

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
4. Whether to be circulated to all Benches ?


Signature

PIYUSH/

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 8th day of August 2002

Original Application no. 636 of 2002.

Hon'ble Maj Gen K K Srivastava, Member-A.

R K Anand, S/o late Shri K.G. Anand,
R/o H No. 32, Sector 7, Urban Estate, Gurgaon,
Presently posted as Joint Controller of Defence
ACCOUNTS, O/O PCDA (P), Draupadi Ghat, Allahabad.

... Applicant

By Adv : Applicant in person

Versus

1. Controller General of Defence Accounts,
West Block V, R.K. Puram, New Delhi.
2. Pr Controller of Defence Accounts (P),
Draupadi Ghat, Allahabad.
3. Union of India through Defence Secretary,
South Block, New Delhi.

... Respondents

(Sri Rajiv Ranjan, Jt. CDA, Allahabad.)

By Adv : Sri R Sharma (absent due to ~~strike~~)

O R D E R

Hon'ble Maj Gen K K Srivastava, AM.

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has challenged the transfer order dated 26.3.2002 (Ann 1) and has prayed that the order dated 26.3.2002 be quashed and respondents be directed to post the applicant back to Delhi in any office of the department.

2. The facts, in short, as per applicant are that the applicant was appointed to the Indian Defence Accounts Services (in short IDAS) in July 1979. ~~XXXXXX promoted to XXXXXXXX~~

2.

After successful completion of probation he was posted at Ordnance Factory, Muradnagar as Assistant Controller. The applicant was promoted as Deputy Controller on 12.7.1983. The applicant was promoted to the rank of Jt. CDA (JAG) in April 1991. He worked with different organisations on deputation at Delhi from 1.10.1997 to 23.3.2000. He was posted to the office of CDA Patna in March 2000 as Jt. CDA. The applicant moved to Delhi on Permanent transfer in June 2001 vide order of CGDA dated 7.6.2001 as per the endorsement of authority on letter dated 26.7.2001. The applicant had filed OA 1936 of 2001 in Principal Bench of this Tribunal at New Delhi regarding his promotion. He also filed contempt petition no. 89 of 2002 on 20.2.2002 before the Principal Bench of this Tribunal, which was heard on 21.2.2002 and 1.3.2002. Annoyed with the filing of the cases against the respondents, respondent no. 1 ie CGDA issued the order dated 26.3.2002 posting the applicant in the lower scale in Allahabad ie ^{out}_{out} side Delhi. The applicant joined at Allahabad on 22.4.2002. Aggrieved by this, the applicant has filed this OA, which has been contested by the respondents by filing counter affidavit and Suppl. counter affidavit.

3. Heard Shri R K Anand the applicant in person and Sri R Ranjan, Jt. CDA (P), Allahabad, on behalf of respondents.

4. The applicant submitted that the impugned transfer order has been issued after only 9 months stay in Delhi with a view to harass the applicant and also to obstruct the applicant in pursuing legal remedies at Delhi.

5. The applicant further submitted that the impugned order dated 26.3.2002 is malafide because respondent no. 1 is prejudiced as the applicant has approached the Principal Bench of this Tribunal for legal remedies. He also contended that the respondent no. 1 wants to harass the applicant because he filed the contempt petition no. 89 of 2002 in Principal Bench of this Tribunal. The case of the applicant has not been considered in an objective and impartial manner. The applicant has also alleged that equality of opportunity has been denied to the applicant as his two colleagues namely Sri S L Singhla and Sri M D Paliath who attended a similar course last year were dealt with by different set of rules.

10. The applicant further submitted that he was selected for 27 advance Professional Programme in Public Administration (in short APPPA) at Indian Institute of Public Administration (in short IIPA), New Delhi which was from 2.7.2001 to 31.3.2002 and was directed to join the same by CGDA order dated 7.6.2001. At the time he was being detailed for this long course, he should have ^{been} given following options as per Department of Personnel and Training (in short DOPT) letter dated 1.1.2001 filed by the respondents as annexure RR2:-

"i. to draw TA as for duty on tour as per para ii (a) of Ministry of Finance, Department of Exptr. OM dated 24.3.86.

ii. to draw TA as for permanent transfer."

The respondents deliberately did not give this option to the applicant. Since the DOPT letter dated 1.1.2001 was neither addressed nor endorsed to the applicant, the applicant had no choice but to accept TA as for permanent transfer.4/-

His Headquarter was also changed from Patna to New Delhi and once the headquarter was changed the applicant could not have opted to draw TA as for duty on tour.

7. Resisting the claim of applicant the respondents submitted that the contention of the applicant that he was transferred from Patna to New Delhi by order of the CGDA dated 7.6.2001 is not correct. Infact the officer was deputed to attend a long course of 9 months at IIPA from the department. When the officers are sent for long courses ^{normally} ~~their~~ ⁱⁿ headquarters are ^{normally} ~~changed~~ to facilitate them to ^{draw} ~~draw~~ their pay and allowances etc through the local office of the department. Attending a course or training in Delhi cannot be termed as permanent transfer.

8. The respondents have also argued that the officer had neither during the course nor at the time of conclusion of the course made any request for his posting at Delhi. The respondent no. 1 after conclusion of course correctly issued the order of posting for Allahabad vide order dated 26.3.2002 keeping in view the requirement of the department.

9. The respondents have also submitted that the charge of malafide against respondent no. 1 is not substantiated and simply the applicant's plea that he is being obstructed to pursue his legal remedies at Delhi cannot be a ground for proving malafide.

10. I have carefully considered the submissions of parties and have closely perused records.

11. Admittedly, the applicant by order dated 7.6.2001 of respondent no. 1 was detailed to attend the 27th APPPA at IIPA, New Delhi from 2.7.2001 to 31.3.2002. I do not find any force in the argument of the applicant that his detailment to the long course was in the nature of permanent transfer. The mere fact that the headquarter was changed from Patna to New Delhi during the period he attended the course and also that he drew TA as on permanent transfer, the detailment on a long course extending for 9 months cannot be termed as transfer. Such courses are meant for officers to hone their professional abilities. The applicant had every right to decline attending such courses which he did not presumably in his own interest. The applicant worked at Delhi from December 1985 to October 1989 and again as IFA at Coast Guard Headquarters New Delhi and Vigilance Officer in the Ministry of Rural Development from 1.10.1992 to 29.3.2000. It appears that the applicant is trying to press his point to attend to his personal requirements at Delhi. Every officer for the Govt. of India is fully aware that attending a long course does not confer any right to him to claim the posting in the same station after conclusion of the course. In the instant case no right accrues to the applicant to claim the posting at Delhi, only because he attended a course at Delhi in IIPA for 9 months and was paid TA as on permanent transfer. An order detailing an officer on a long course having provision of drawing TA as on duty cannot be considered as an order of permanent posting. Drawing TA on permanent transfer, for which also the provisions are contained in rules would not change the nature of such an order. Therefore, the contention of the applicant is misconceived. The respondents have committed no error of law in posting the applicant at



Allahabad vide impugned order dated 26.3.2002. Having gone thru through the pleadings I find no good grounds for intervention.

12. The applicant in para 4.11 of the OA has averred that he has been posted to Allahabad in lower scale. This contention of the applicant is also not tenable. His present status is Jt CDA and till he is promoted to Senior Administrative Grade he has to be posted against the post of Jt CDA or an equivalent post in the selection grade of Junior Administrative grade. The officer has been posted as Jt CDA at Allahabad, I do not find that there is any-thing illegal about it.

13. In the facts and circumstances and my aforesaid discussions the OA is devoid of merit and is liable to be dismissed. The OA is accordingly dismissed.

14. There shall be no order as to costs.


Member (A)

Dated : 08/08/2002

/pc/