

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 892 of 2002

Allahabad this the 15th day of November, 2002

Hon'ble Mrs.Meera Chhibber, Member (J)

Dr.Jagdish Lal Son of Sri Dhunni Chandra,Resident
of 967-C, Allapur, Allahabad.

Applicant

By Advocate Shri Satish Dwivedi

Versus

1. Union of India through the Secretary,Ministry of Environment and Forest, Government of India, New Delhi.
2. The Director, Botanical Survey of India, Office of the Director, P-8, Brabourne Road,Kolkata-700001.
3. The Scientist-C and Head of Office, Botanical Survey of India, P-8, Brabourne Road, Kolkata.
4. The Additional Director, Botanical Survey of India, Central Circle, 10, Chatam Line,Allahabad.

Respondents

By Advocate Shri Satish Chaturvedi

O R D E R (Oral)

By Hon'ble Mrs.Meera Chhibber, Member (J)

In this O.A., the applicant has challenged the transfer order dated 12.07.02 whereby he has been transferred from Central Circle, B.S.I., Allahabad to B.S.I.Headquarters Cryptogenic Section,IBG, Howrah (page 19).

2. The grievance of the applicant is that he has been transferred on a lower post of Scientist 'C' whereas he is already working as Scientist 'D' in Botanical Survey of India, Allahabad. It is, thus, submitted by him that he cannot be transferred to a lower post specially when persons junior to him in category ^{already R} Scientist 'C' are available at Allahabad and can very well be posted there. In support of his contention he has drawn my attention to para-22 where a number of persons who are senior and junior to the applicant working at Allahabad, are stated to be posted at Allahabad. He has also submitted that his wife is posted in Allahabad in Horticulture and Food Processing Department of State of Uttar Pradesh and as per instructions issued by the Government of India, the respondents are required to make effort to keep husband and wife at the same station as far as possible, but no such effort has been made by the respondents in the present case. Even though number of other persons have been given the benefit of these instructions. He has given the names of all those persons in para-23 of the O.A. It is also submitted by the applicant that he is due to superannuate shortly and has only 2 years and 9 months to go before his retirement, therefore, he should be allowed to settle ^{in R} at the station where his home town. He has also stated that his son is studying in B.Com Part II

at Allahabad and he had stated all these facts before the authorities by giving his representation on 18.07.02 and 30/31-07-02 (page 24 and 25 of the O.A.), but the grievance of the applicant is that while deciding these representations vide their order dated 02.08.02, which is at page 37, the respondents have not taken into consideration these facts. I have seen the said order. It only says that the transfer was decided absolutely on the need of experienced officer like applicant at B.S.I. Headquarters and that the Director, B.S.I. desires that all senior scientists of the department should come forward and work collectively for the interest and restoring the lost glory of Botanical Survey of India leaving aside their personal and family problems. It is, thus, prayed by the applicant that the orders passed by the respondents transferring him from Allahabad to Howrah may be quashed and he may be retained at the same station.

3. The O.A. is opposed by the respondents, who have stated that in ~~the~~ transfer matters, Courts should not interfere as who is to be posted where and how the work is to be taken from the official should be left to the administration to decide. They have further submitted that the applicant has given his willingness for being sent to Antarctica Expedition for a period, which is far away from Howrah, therefore, he cannot have any grievance when he has ^{been posted} posted from Allahabad to Howrah, that is within the country itself. They

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have also stated that the department is passing through a very critical phase and the services of the applicant are required at Howrah as he is an experienced and senior Scientist that is why his representation was considered and rejected. They have also submitted that the applicant has not alleged any malafides, therefore, there is no merit in the O.A. and the same is liable to be dismissed.

4. I have heard both the counsel and perused the pleadings.

5. It is seen that the applicant has made a categorical averments in para-13 of the O.A. that the post on which he has been transferred is meant for Scientist 'C', whereas he is Scientist 'D', which is higher in rank and since the Scientist 'C' are very much available at Allahabad itself, there is no justification to post him to a lower post. I have seen the counter-affidavit. The respondents have not denied this fact at all that he is being posted to a lower post. On the contrary, the respondents have themselves admitted that the applicant is a very experienced and senior Scientist. If that be the position, I do not see any justification as to why he should be posted to a lower post when Scientist in lower grade are very much available. It is also seen that the applicant has made a categorical averment

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by giving names of the Officers and Scientists in para-23 to show that the number of those persons have been retained at those very stations where their wives are working but even this paragraph has not been denied by the respondents and all that they have been stated is that it is the discretion of the authorities to post a person at any place where they think his services are required. The impugned order as well as the counter affidavit have not really thrown any light on the basic averments made by the applicant. I am fully aware that the scope of Tribunal to interfere in the matter of transfer is very limited as Hon'ble Supreme Court has repeatedly held that the Tribunal should not interfere in day to day functioning of the administration, but that in the present case we find the applicant has made out ^{specific} ~~such~~ an averment in the O.A. as well as in the second representation given by him with regard to the fact that he has been posted to a lower post while junior Scientist 'C' are available and also that other Scientists have been given the benefit of staying at the same station where their wives are working. The respondents were under a duty to atleast consider these aspects and pass a reasoned order thereon. Neither these aspects have been considered in the order passed by them on 02.08.02 nor these facts have been denied by the respondents in their counter affidavit. Therefore, in my considered view, the

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ends of justice will be met if the matter is remitted back to the respondents with the direction to consider the averments made by the applicant in the present O.A. and then pass a detailed and speaking order within a period of 15 days from the date of receipt of copy of this order under intimation to the applicant. Till such time the representation is decided, the interim order passed earlier shall continue. With these directions, the O.A. stands disposed off. No order as to costs.



Member (J)

/M.M./