

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

original Application No. 896 of 2002.
this the 12th day of August 2002.
HON'BLE MR. C.S. CHADHA, MEMBER(A)

1. Jagdishwar Narain, S/o Sri Shri Gopal Narain.
2. Ganga Vishnu S/o Late Rameshwar, R/o MIG 18, Barra, Kanpur.
3. Mohd. Hussain, S/o Late R/o Makbara, Gwaltoli, Kanpur.
4. O.P. Pathak, S/o Late R.N. Pathak, R/o A-36/Type IV, CPWD (Kendranchal) Colony, Gujaini, Kanpur.
5. Amlendu Nath Misra, S/o Sri Vishwabhar Nath Misra, R/o L-17, Indra Prasthapatment, Ratan Lal Nagar, Kanpur.
6. Shanker Gupta, S/o Late G.P. Gupta, R/o 112/360-A, Swaroop Nagar, Kanpur.
7. A.K. Bhatia, S/o Shri J.C. Bhatia, R/o 504 Gopala Tower 117/M/32, KakaDeo, Kanpur.
8. R.C. Varshney, S/o late Har prasad Varshney, R/o 62 Dev Nagar, Agra.

Applicants.

By Advocate : Sri K.P. Singh.

versus.

1. Union of India through Secretary, Ministry of Finance, New Delhi.
2. Chief Commissioner of Income Tax (CCA), U.P. (West) Region, Kanpur.
3. Chief Commissioner of Income Tax, Kanpur.
4. Commissioner of Income Tax-I, Kanpur/Agra.
5. Commissioner of Income Tax-II, Kanpur.
6. Commissioner of Income Tax (Central), Kanpur.

Respondents.

By Advocate : Sri R.C. Joshi.

O R D E R (ORAL)

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

The applicants in person. Sri M. Mehrotra representing the respondents. No counsel for either party as Bar Association has decided to abstain from judicial work.

Both the sides have been heard.

The basic question to be decided in the present case is whether the transfer of the applicants is against the policy laid down in this regard. The applicants have stated that they have not completed 8 years at Kanpur or five years at Agra, as the case may be, as such norms for transfer have been laid down by the transfer policy. However, the person representing the respondents has in the affidavit stated that the policy is not for 8 years or 5 years at Kanpur/Agra respectively, but the total period has to be counted. In this connection, Annexure 'C' dated 1.6.2000 has been brought to my notice, which is a circular of the Ministry of Finance, which clearly states, "this, however, does not imply that the period spent by them in the lower grades shall not count for counting ~~of~~ stay for transfer purposes." In accordance with the affidavit of the respondents, all the applicants have spent between 14 to 36 years at their present place of posting though they became ITO later. The applicants' contention is that the said circular is old and, therefore, does not apply in the present case, but have not been able to show any circular which has changed the said policy.

The applicants have pleaded that they have been transferred during the current academic session and mid session transfer amounts to harassment. However, I find that the transfer order was given on 5.7.2002 just when the new academic session had begun and the officers were directed to be relieved by 10th July, 2002. Today is 12.8.2002 and the said order has not been complied with. The officers were also directed that they may make representation against the transfer only after joining at their new places of posting. The contention of the applicants is also that there are other officers who have been serving for longer periods and the respondents have adopted a pick and chose policy and that such transfer should only be made after completion of the normal tenure. Merely by not mentioning the word "on administrative grounds", the impugned order does not become defective or malafide. In view of the fact that the applicants have spent long periods of time at their present

C.S. Chadha

P.T.O.

-3-

places of posting, they cannot claim any relief as a matter of right.

The application is, therefore, not worth considering and the same is dismissed. No costs.

G. Chettri

MEMBER (A)

GIRISH/-