

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

ORIGINAL APPLICATION NO.689 OF 2003

ALLAHABAD THIS THE 31st DAY OF March, 2005

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Jayant Kumar Taneja,
Aged About 52 years,
S/o Late B.D. Taneja,
J.E. F/M,
R/o Q. No. Shahjahanpur Cantt.
At present working on the post of
J.E.F/M, in the office of the AGE (I)
Shahjahanpur Cantt. (U.P.)

.....Petitioner

(By Advocate Shri R.C. Pathak)

V E R S U S

1. Union of India,
Through the Secretary,
Ministry of Defence,
New Delhi.
2. The Engineer-in-chief,
Army Headquarter,
Kashmir House, DMQ, P.O.,
New Delhi.
3. The Chief Engineer, Headquarters,
Central Command,
Lucknow.
4. The Chief Engineer,
Bareilly zone, Station Road,
Bareilly.
5. The CWE (Commander Works Engineer)
Station Road, Bareilly Cantt.
6. The AGE (I), MES, Shahjahanpur.

.....Respondents

(By Advocate: Sri Saumitra Singh)

ORDER (ORAL)V.K. MAJOTRA, V.C.

This O.A. was listed for hearing on 28.3.2005.

The learned counsel of the applicant who was present earlier, was found absent when the case ^{was} ~~was~~ called out for hearing. We proceeded to adjudicate the matter in terms of Rule 15 of CAT (Procedure) Rules, 1987 after hearing the counsel of the respondents and taking into consideration the material available on record and respective pleadings. The O.A. was dismissed, reasons remained to be recorded. Interim order passed earlier was vacated.

2. Later on Sri R.C. Pathak, learned counsel of the applicant appeared and requested for re-hearing after recalling the order of dismissal. The case was listed for being spoken to.

3. The case was taken up for being spoken to on 31.3.2005. Both the Counsel were heard. It was ordered "while the O.A. stands dismissed, the points submitted by both sides will be taken care of in the reasons to be recorded."

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4. At the outset, it is useful to refer to rule 105 of CAT Rules of Practice, 1993, which reads as follows:-

- "(a) The Bench shall as possible pronounce the order immediately after hearing is concluded.
- (b) When the orders are reserved, the date for pronouncement not later than 3 weeks shall be fixed. The date so fixed shall not be changed without due notice to all parties/counsel.
- (c) Reading of the operative portion of the order in the Open Court shall be deemed to be pronouncement of the order.
- (d) Any order reserved by a Circuit Bench of the Tribunal may be pronounced at the Principal place of sitting of the Bench of the aforesaid modes as exigencies of the situation require."

5. The O.A. having been dismissed on 28.3.2005, it is deemed in terms of rule 105 (c) abid that the order has been pronounced, even though the reasons for dismissal of the O.A. had yet not been recorded. It is not possible in law and under the rules to recall the pronounced order and re-hearing^{ll} the case and as such the request of the learned counsel of the applicant for re-hearing after recalling the above order is rejected. However, the learned counsel submitted that the applicant has been transferred to a distant place. At this point of time, a vacancy exists at nearer place of Bareilly zone and the applicant may be considered for adjustment against a vacancy in Bareilly zone in the interest of justice.

6. The applicant has challenged Annexure-2 dated 27.6.2003 whereby he has been transferred from AGE-I, Shahjahanpur (V.D) to GE (P), Bhopal (M.P). It has been averred that the respondents have laid down a policy dated 16.4.2003 not to transfer the employees in mid academic session. The applicant's daughter is stated to be a student of Class XII of U.P. Board, which is her final year. It is pleaded that in case the applicant is shifted to Bhopal, it would adversely affect the education of her education. On 2.7.2003, the learned counsel of the applicant had submitted that the applicant may not be moved out from the present location till the final examination of her daughter is over. On 2.7.2003, the operation of the impugned order dated 27.6.2003 was stayed till further orders.

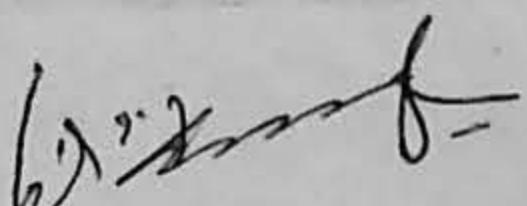
7. The learned counsel of the respondents contended that although the interim order granted in this case on 2.7.2003 is being continued and the applicant is still working at Shahjahanpur, the grievance of the applicant does not exist any more as the examination of the applicant's daughter has already completed on 15.4.2004. In this connection, the learned counsel drew our attention to the certificate dated 9.3.2004 issued by the Principal of St. Paul's Inter College, Shahjahanpur. The learned counsel submitted that while the ground on

which ^h
the basis of interim stay was granted does not subsist after 15.4.2004, in the interest of justice, the interim stay should be vacated and O.A. be dismissed so that the applicant proceeds to take charge at the new station.

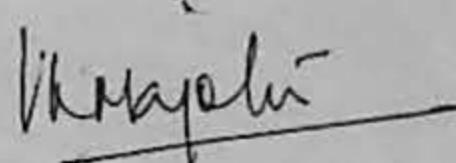
8. Indeed the operation of the transfer order of the applicant was stayed on the ground that the applicant has been transferred in mid academic session of the applicant's daughter. The examination of XIIth standard having already completed on 15.4.2004, there is no justification for continuance of the stay of the operation of the impugned order. The applicant has stayed on the place of his choice on the basis of the stay order much beyond the expiry of the academic session of his daughter. As such, there is no merit in the O.A. any more, the same is dismissed.

9. However, the learned counsel of the applicant submitted that a vacancy in the post of J.E. exists in Bareilly zone, which is much nearer than Bhopal where the applicant has been transferred. The respondents maybe asked to consider adjusting the applicant against a vacancy in Bareilly zone. Although, the O.A. has been dismissed and stay of transfer order vacated, in the interest of justice, it is directed that while the applicant must join

the new place of posting forthwith, he may make a representation for adjustment against a vacancy, if any, in Bareilly zone. Such a representation, if made, may be considered by the respondents sympathetically within a period of three months from the date of receipt of such representation by passing a reasoned and speaking order under intimation to the applicant. No costs.


GIRISH

MEMBER-J


V.K. Rayal

VICE CHAIRMAN

31.3.05