

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 779 OF 2003

ALLAHABAD THIS THE 17th DAY OF JULY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. D. R. TEWARI, MEMBER (A)

Shri K.D. Saini,
s/o Late Shri H.R. Saini,
r/o B 59/3 Rajender Puram,
Mawana Road, Meerut.

.....Applicant

(By Advocate : Shri A. Srivastava)

V E R S U S

1. Union of India through the Secretary Health,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi.
2. Deputy Secretary to Government of India,
Ministry of Health and Family Welfare (Deptt. of Health)
Nirman Bhawan, New Delhi.
3. Director General Health Services,
Nirman Bhawan,
New Delhi.

.....Respondents

(By Advocate : Shri G.R. Gupta)

O R D E R

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

By this O.A. applicant has challenged the order dated 18.12.2002 (Pg.16) whereby applicant has be-en transferred from C.G.H.S. Meerut to JIPMER, Pondicherry in public interest with immediate effect.

2. It is submitted by the applicant categorically in para-9 that applicant has till date not been relieved from the office of C.M.O., Meerut. It is further submitted by the applicant that initially he joined as Medical Officer in the year 1971,



and always complied with the transfer orders as and when they were issued. He had under-gone transfers to number of stations including Nagaland while he was serving in Assam Rifles where he ~~was diagnosed~~ ^{is diagnosed} as having extensive fluorosis. As a result of this disease, it is submitted by the applicant that his ^{spinal cord} ~~responsibility~~ had got affected for which he had got himself operated in April 2000 at New Delhi. But the position now is critical as he is neither able to stand nor can walk for even 50 meters. It is also submitted by the applicant that he has stated all these facts in his representation given to the Secretary (Health), Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi on 10.01.2003 (Pg.22) but till date respondents have not decided the said representation. He has, thus, prayed that in the interest of justice this transfer order may be quashed and set aside and he may be allowed to continue at Meerut as he is in the fag end of his career as he has already completed 58 years.

3. Counsel for the respondents has submitted that this is a normal transfer which is an incidence of service and once the applicant has been transferred he should ~~comply~~ ^{to the effect} with the orders. He has also relied on number of judgments ^{that} Tribunal should not interfere in transfer orders unless it is malafide in nature or is issued in violation of statutory rules or instructions on the subject. In the instant case, since neither applicant has alleged any malafide nor it is stated that the transfer order is in violation of statutory rules, therefore, it requires no interference by the Tribunal. Even otherwise, it is submitted by the respondents counsel that if applicant ^{is in} ~~has any~~ such a

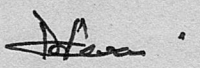
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critical condition that he cannot ^{& even R} walk or stand for 10 meters,
it would be better for him to ^{apply} ~~for~~ for voluntary retirement.

4. We have heard both the counsel and perused the pleadings as well.

5. We are completely aware that scope of interference in case of transfer is very limited as Hon'ble Supreme Court has repeatedly held that courts and Tribunals should not interfere in normal transfer as that would hamper working of the department. However, in the instant case, it is seen that applicant though was transferred as back as on 18.12.2002 but he has not been relieved till date and his representation is also still pending with the Secretary, therefore, we feel it would be in the interest of justice, if this O.A. is disposed off at the admission stage itself by giving a direction to the respondent No.1 to consider the applicant's representation and then pass an appropriate order thereon in accordance with law by ~~passing~~ a reasoned and speaking order within a period of 2 months from the date of receipt of a copy of this order under intimation to the applicant. [&] Till such time, his representation is decided. Respondents are ~~also~~ directed to the not to give effect to the impugned order as applicant has till date nor been relieved as stated by the applicant's ^{counsel, R} ~~himself~~.

6. With the above directions, this O.A. is disposed off at the admission stage itself with no order as to costs.


Member (A)


Member (J)

shukla/-