

CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J O D H P U R.

Date of Order : 27.9.1995.

QA No.264/95

Bajrang Singh ... APPLICANT.

Vs.

Union of India & Ors. ... RESPONDENTS.

Mr. D.C. Sharma, Counsel for the Applicant.

Mr. B.S. Rathore, Counsel for the Respondents.

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CORAM :

Hon'ble Mr. N.K. Verma, Administrative Member.

BY THE COURT :

Heard Mr. D.C. Sharma and Mr. B.S. Rathore.

2. The case of the applicant is that he was transferred from Jodhpur to Jaipur as per Annexure A/3 dated 6.10.1994 by which he was posted to Jaipur. However, in the meantime, volunteers were requested to indicate their preferences for posting to the hard stations as per the order issued on 7.11.1994 and the applicant made an application on 27.11.1994 that he wanted to be posted at Jaisalmer or Barmar which were declared as tenure stations with effect from 1.2.1995. In reply to this, applicant was informed on 19.12.1994 by Annex. A/7 that there were no vacancies at that particular moment either in Jaisalmer or Uttarlai and his request for transfer to these stations will be considered at the time of turnover transfer in 1995. The moment order was, therefore, deferred till 30.4.1995. However, it

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was indicated in that very order that the individual was to move without any fail if his case was not approved for posting to tenure station. Subsequently, the Southern Command, Pune, on his own intimated by a telegram that the ^{ve}moment of the applicant should be withheld as the same is being reviewed with the turnover of 1994. This telegram is dated 13.5.1994. Thereafter, the impugned order dated 1.3.1995 was issued directing the ^{ve}moment of the applicant for compliance.

3. The main issue here is that the applicant had sought a transfer to a tenure or hard station in the parlance of the respondents. Such preferences have certain kind of advantages over the posting to the peace station and that is why the applicant had shown his anxiety for his postings to Jaisalmer/Uttarlai. Mr. Sharma, learned Counsel for the applicant brought to my notice the guidelines and policy decision issued by Ministry of Defence and as per Rule 19 three choice peace stations have to be obtained before the applicant was ordered to be moved to Jaipur. This instruction was not followed and the applicant was served with an order for Jaipur in spite of his request for posting to hard stations like Jaisalmer and Uttarlai. Learned Counsel for the applicant also stated that the applicant has not alleged any mala fides or violation of statutory instructions. But the guidelines and policy decisions issued by the Government also have force, which needs to be complied with in its spirit and letter. The applicant, therefore, prays that his posting to Jaipur should be quashed and his request for posting to hard station be considered by a review by the Competent Authority.

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4. Mr. B.S. Rathore, learned Counsel for the respondents has drawn my attention to the reply filed by the respondents that Jaisalmer and Barmer were declared as tenure stations during November, 1994 and volunteers called for posting to these stations from all categories. The applicant had volunteered for the same, but his request could not be considered since he is to be turned over to the non-sensitive station only. Since such vacancy did not exist in these stations being Garrison Engineers' Division, his posting to the Chief Engineer, Jaipur was ordered, which is a non-sensitive station. This order, therefore, does not require a review. Learned Counsel for the respondents further brought to my notice the fact that choice stations are called from all those who are working in the hard stations and not from those who are working in the peace stations, and hence the question of posting at the choice of the applicant did not arise.

5. I have given careful considerations to the arguments advanced by the learned Counsel for both the parties.

6. Applicant is a Civilian employee in the Defence Service with a liability of working in ^{peace} ~~civil~~ station, sensitive and non-sensitive stations. The guidelines and policy decisions regarding transfer was reproduced in Rule 19 of the order, which reads as follows:

" 19-An individual who is to move from the peace station to another peace station to make room for a tenure completed repatriatee, should be posted to any of his three choice stations, as far as possible. The facility will not be available to other types of postings like posting on administrative grounds, promotion and so on mentioned in para 4 above. Posting zones for peace to peace station should be limited preferably statewise, to the extent possible."

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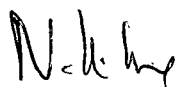
This rule has a clause to the posting from one peace

station to another peace station by indicating "to make room for a tenure completed repatriatee." The averments of the applicant does not indicate that he was posted from Jodhpur to make room for a repatriatee official. The transfer of the applicant was not made to make room for a repatriatee who had completed his hard tenure else where. Hence the question of his obtaining three choices for the peace station did not arise. The other facts indicated in this rule is that posting is limited preferably State-wise to the extent possible which has been complied with in as much as the applicant was transferred from Jodhpur to Jaipur within the State of Rajasthan.

7. The main arguments canvassed by Shri Sharma is that the representations of the applicant for postings at Jaisalmer/Barmer have not been disposed of and a review assured through a telegram dated 13.5.1994 had not been undertaken and hence the impugned orders should not be implemented. Both these arguments have been totally rebutted by the respondents by indicating the facts that the representation dated 25.11.1994 was duly considered and a reply thereof communicated to the applicant on 19.12.1994. The respondents have undertaken a review of the postings and the impugned order passed on 6.10.1994 was a sequel to that.

8. The averments and arguments of the learned Counsel for the applicant made above do not convince me that there is any case for Judicial review of the impugned orders. The OA, therefore, fails and is dismissed at the stage of admission. No order as to costs.

9. Interim order granted on 5.7.1995 stands vacated accordingly.


(N.K. VERMA)
Member (A)

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Part II and III destroyed
in my presence on 2/1/2001
under the supervision of
section officer [signature] as per
order dated 4/9/2000

[signature]
Section officer (Record)