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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 168/1999.

Date of Order : 24.8.99

Roop Narain S/o Late Shri Moti Lal, R/o F-128, Sarojini Nagar, New Delhi - 110023. Employed as Asstt. Engineer in Border Fencing Circle II, CPWD, Jaisalmer.

.. Applicant.

Versus

1. Union of India through Secretary, Ministry of Urban Affairs & Employment, Nirman Bhawan, NEW DELHI - 110 011.
2. The Director General (Works), C.P.W.D., Nirman Bhawan, New Delhi - 110 011.
3. The Chief Engineer (Civil), Border Fencing Zone, East Block, Level IV R.K. Puram, New Delhi - 66.
4. The Superintending Engineer, Border Fencing Circle-II, CPWD, BSF Campus, Jaisalmer - 345002.
5. The Executive Engineer, Border Fencing Fivn. V, CPWD, BSF Campus, Jaisalmer - 345 002.

.. Respondents

Applicant present in person.

Mr. Vinit Mathur, counsel for the respondents.

Mr. A.S. Taneza, Executive Engineer, (P & A), Officer Incharge, present in person.

CORAM :

Hon'ble Mr. Gopal Singh, Administrative Member.

BY THE COURT :

Applicant, Roop Narain, has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondent No. 2 to withdraw his order No. 51/99 dated 12.4.99 (Annexure A/1) and No. 100/99 dated 22.6.99 (Annexure A/1 (c)) and not to transfer the applicant till his tenure in the border fencing work is complete. or alternatively to

Gopal Singh

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post him back to Delhi. The applicant has also prayed for regularisation of the intervening period of relieving and joining i.e. from 14.4.1999 to 22.6.1999 treating the same as joining time.

2. Applicant's case is that in response to options called by respondent No. 2 for posting of Assistant Engineers in Border Fencing works for a tenure of 18 months, the applicant opted for Border Fencing posting in Rajasthan Sector on 28.1.1998 and accordingly he was posted in Border Fencing Circle II, CPWD, Jaisalmer vide respondents order dated 24.4.98. Subsequently, respondents in order dated 12.4.99 at Annexure A/1 transferred the applicant from Jaisalmer to Jodhpur and the applicant was relieved of his duties in Jaisalmer on 13.4.1999 (After Noon). The applicant requested the respondent No. 4 to forward his representation to respondent No. 2 requesting for retention at Jaisalmer upto 30.9.1999 so that he completes his tenure of 18 months. However, no action was taken on his representation. The applicant had also forwarded a copy of this representation directly to the respondent No. 2. The transfer orders dated 12.4.1999 were finally cancelled vide respondents order dated 22.6.1999 but the applicant was transferred under the same order to IBB Maintenance Division, Balurghat with effect from 01.7.1999. Feeling aggrieved, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply.

4. I have heard the learned counsel for the parties and perused the record of the case.

5. The applicant was posted to Border Fencing Zone, Jaisalmer on his own option. This posting is considered to be a hard posting and tenure of such posting is of 18 months. This fact has been admitted by both the

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parties. It is alleged by the applicant that respondent No. 4 was not happy with the functioning of the applicant as he was making various complaints to the superior authorities against respondent No. 4 and it is alleged that it was at his instance that the applicant has been transferred first to Jodhpur and now to Balurghat, before completion of 18 months' tenure. During the arguments I had asked the learned counsel for the respondents whether they can assure the applicant that on completion of 18 months tenure at Jaisalmer and Balurghat, he will be posted back to Delhi and during the intervening period he will be allowed to retain Government accommodation at Delhi on normal rent.

6. The respondents in an undertaking produced before me today, which has been taken on record, mention as follows :-

"(1) Shri Roop Narain, Assistant Engineer (Civil CPWD), posted to Balurghat under I.B.B. Maintenance Division shall be considered for choice posting including Delhi after completion of 18 months tenure including his period at Jaisalmer from 15.7.98 to 13.4.99.

(2) The facility of retention of Government accommodation at Delhi is available to all employees posted in Border Fencing Project including IBB Project at Balurghat."

7. I would not like to go into the allegations and cross allegations made by the applicant and respondent No. 4. ~~Since~~ The applicant had come on his own volition to Border Fencing Division in Jaisalmer with a view to retain the Government accommodation at Delhi and get posted back to Delhi after the tenure is over. Jodhpur is not considered as a hard posting and immediately on joining the Jodhpur posting, the applicant would have been rendered ineligible for retention of Government accommodation at Delhi. Further the applicant was not due for transfer out of Delhi when he opted for his posting to Border Fencing Division. If the respondents did not want him to continue at Jaisalmer, he should have been posted back to Delhi. I see no reason for

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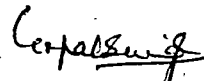


posting the applicant at Jodhpur. The applicant has now been posted to Balurghat, which I am told is a hard posting station, therefore, his apprehension of losing accommodation at Delhi has in my opinion come to an end.

8. The applicant also submitted that he had initially opted for Border Fencing Division whereas his posting at Balurghat is in a Maintenance Division. Since Balurghat is considered to be a hard posting station, I do not consider it necessary to issue any direction for posting the applicant to any other place where Border Fencing Division is functioning. The applicant had opted for a hard posting only to ensure that he will be back to Delhi after 18 months and that he will be allowed to retain the Government accommodation at Delhi during this period. On completion of his tenure of 18 months in hard posting at Jaisalmer and Balurghat, the applicant should be assured of his posting back to Delhi and for retention of Government accommodation at Delhi during the intervening period and for this reason I directed the learned counsel for the respondents to get an undertaking to this effect. The undertaking given by the respondents assures him both these things.

9 In the light of above discussion, I dispose of this application with a direction to the respondents to abide by the undertaking given by them on completion of 18 months' tenure of hard posting of the applicant. The period of absence from duty from 14.4.1999 till the date the applicant joins his duties at Balurghat may be regularised as per rules.

10. Parties are left to bear their own costs.



(GOPAL SINGH)
MEMBER (A)