

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR.

Original Application No.133/2003.

Dated: 2 .7.2003.

P.S.Rathore son of Shri Sujan Singh, Aged 36 years, presently residing at Jodhpur. At present working as CMD, Branch Recruitment Office, Ratanada, Jodhpur (Rajasthan).

...Applicant.

Versus

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Recruitment Officer, Headquarters, Recruitment Office, Jaipur, Rajasthan.
3. The Col. Recruitment Officer, Branch Recruitment Officer, Branch Recruitment Office, Ratanada, Jodhpur (Raj).

...Respondents.

Mr.Rakesh Kalla, Counsel for the Applicant.

Coram: Hon'ble Mr. R.K.Upadhyaya, Administrative Member,  
Hon'ble Mr.J.K.Kaushik, Judicial Member.

: O R D E R :

(Per Mr.R.K.Upadhyaya, Administrative Member)

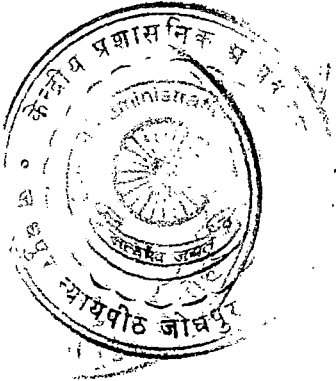
In this application, the applicant has assailed an order dt.24.6.2003 (Annexure – A-1) by which he has been informed that he has been permanently transferred from Jodhpur to Kota. He has also been asked to remain in readiness for transfer after receipt of pay for the month of June, 2003.

2. It is stated by the applicant that he was initially appointed as M.T. Cleaner in INS Valsura in April, 1987. In due course, he was promoted as MTD Gr. II and posted at Port Okha. In view of

*(Signature)*



his personal problems relating to sickness of his wife and schooling of his children, he had asked for compassionate transfer by an application dt. 11.11.1997 (Annexure - A-2). Subsequently, by an order dt. February, 1999 (Annexure - A-3), he was transferred to Branch Recruitment Office (for short, BRO), Jodhpur (Rajasthan). According to the applicant, inspite of his very efficient and sincere service he has been asked to be ready for transfer on permanent duty to BRO, Kota. Learned Counsel explained that the impugned order dt. 24.6.2003 (Annexure - A-I) merely conveys the transfer of the applicant as per order dt. 14.6.2003. However, no such orders dt. 14.6.2003 has been received by the applicant so far. The Learned Counsel stated that unless the applicant knows the reasons for transfer, it is not possible to show that the impugned order of transfer deserves to be quashed. According to the applicant, in the instant case there appears to be no administrative exigency to transfer the applicant abruptly from Jodhpur to a distant place Kota. The applicant further apprehends that some extraneous considerations prevailed with the Competent Authority otherwise there was no administrative exigency which can compel transfer of the applicant. However, the applicant has fairly stated in the grounds of this application that "the transfer is an incidence of service and one has to join at the place of his/her transfer and administration is empowered to effect the transfers. But when such transfers are drenched in malice and malafides and/or is passed without any administrative exigency and/or against the transfer policy of the Government then such a transfer can be a



*Chandigarh*

subject matter of judicial scrutiny by this Hon'ble Tribunal." The Learned Counsel of the applicant further stated that the impugned order dt. 24.6.2003 is a non-speaking order and it should be quashed and set aside on that ground itself.

3. We have heard the Learned Counsel for the applicant and also perused the material available on record carefully. There is no dispute that the applicant has All India Transfer liability. It is also settled law as pointed out by the applicant himself that the administrative requirements for deployment of employees can be best judged by the administration and not by the Tribunal or Courts. In this connection, the observation of the Hon'ble Supreme Court in the case of National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan & Anr. (2002 (1) SLJ 86 SC) may be referred. The Hon'ble Apex Court has observed that transfer is an incidence of service and none has right to continue at one place. It is further observed as follows :



"Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting such transfer, the courts or the tribunals cannot interfere with such orders as a matter of routine, as though they are the appellate authorities substituting their own decision for that of management as against such orders passed in the interest of administrative exigencies of service concerned."

In view of the settled law on the issue regarding competence of Administrative Authorities to transfer its employees, the scope of judicial review by this Tribunal is limited. However, with a view to ascertain the grievance of the applicant even to that limited extent, it is desirable that the applicant exhausts his departmental remedies before approaching this Court. The

*Chandrasekhar*

grievance of the applicant is that he has not yet been served with a copy of the order of transfer dt. 14.6.2003. He has merely been given the order dt. 24.6.2003 (Annexure - A-I) informing him that he has been transferred from Jodhpur to Kota and he has to be in readiness to proceed on transfer after receipt of pay of June, 2003. The applicant has not made any representation seeking a copy of the order dt. 14.6.2003 or any representation against the impugned order dt. 24.6.2003. In our considered view, it is desirable that the applicant approaches his administrative authorities for redressal of his grievance before he can challenge the same in this Tribunal. For this purpose, without expressing any opinion on merits of the claim of the applicant, the applicant is directed to file a representation along with a copy of this O.A. as a supplementary representation to Respondent No.2 with a copy thereof to Respondent No.3 within two weeks from the date of receipt of a copy of this order. The applicant is also directed to enclose a copy of this order along with his representation so made. In case, the applicant complies with our order as aforesaid, the Respondent No.4 is directed to pass a speaking order under intimation to the applicant within a period of four weeks from the date of receipt of a representation along with copy of this order. Till the disposal of representation of the applicant, the impugned order dt. 24.6.2003 insofar as it purports to convey the transfer of the applicant from Jodhpur to Kota is concerned, shall remain stayed.



*[Handwritten signature]*

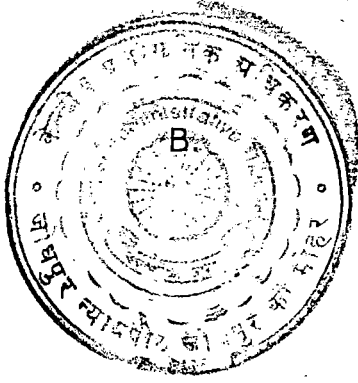
4. In view of our direction in the preceding paragraph, this application is disposed of at the admission stage.

*J.K. Kaushik*

(J.K. KAUSHIK)  
JUDICIAL MEMBER

*R.K. Upadhyaya*

(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER



Received on 03-7-03

Madhusudhan

3/7/03

Digit clerk I

OP  
3/7

Copy clerk h8  
04/03

Copy Received 4/7/03

fuels attack

Copy of order along with OA bits  
Annex Page 1 to 19 sent to R1 to R3  
Wode no 144 to 146 dat 10-7-03

A D [unclear] with [unclear]  
for R1 R3 and  
R2 [unclear]  
[unclear]  
5/8/03

Part II and III destroyed  
in my presence on 23-3-09  
under the supervision of  
section officer ( ) as per  
order dated 19/2/09

Section officer (Records)