

1/6

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 233/2005

Date of Decision: 06.10.2006

HON'BLE MR. J K KAUSHIK, JUDICIAL MEMBER.

R.C. Vyas S/o Shri Banshidharji Vyas, aged about 44 years, by caste Brahmin, Resident of 61, Subhash Nagar Extn. West Bhilwara, Presently substantively posted working as Driver in the office of the Chief Medical Officer, Bhadu under Welfare Commissioner, Labour Welfare Organisation, B-115 Jatia Hills, Ajmer.

...Applicant.

Rep. By Mr. Manoj Bhandari along with Mr. K.V. Vyas, Advocate - Counsel for applicant.

VERSUS

1. The Union of India through the Secretary, Ministry of Labour and Employment, Jaisalmer House, Secretariat, New Delhi.
2. The Welfare Commissioner, Labour Welfare Organisation, B-115, Jatia Hills, Ajmer.
3. The Assistant Welfare Commissioner, Labour Welfare Organisation, B-115, Jatia Hills, Ajmer.
4. Shri B.K. Sanwaria, Welfare Commissioner, Labour Welfare Organisation, B-115, Jatia Hills, Ajmer.

...Respondents.

Rep by- Mr. Vinit Mathur along with Mr. M. Godara, Advocate - Counsel for respondents.

ORDER

Shri R. C. Vyas has preferred this Original Application challenging the action of the respondents in issuing the impugned order dated

2/

~~11~~
J/7

02nd August 2005 whereby he has⁻²⁻ been ordered to be transferred from Bhadu to Ajmer.

2. The learned counsel represet representing the contesting parties were heard. It has been brought to my notice that there are certain subsequent development in the matter inasmuch as certain posts of driver have been abolished and practically there are only two posts in headquarters office at Ajmer which are duly filled in. Incidentally, there is no post available at Bhadu also. Thus, in the result, the applicant is being transferred from a non-existent post to a place where also there is no post. The matter is required to be reconciled by the respondents. If there is no post and a person is available then the recourse may have to be made to invoke the rules relating to surplus employees. It seems that due to the pendency of this case, the respondents might be reluctant to take appropriate steps/decision in the matter.

3. Simultaneously, it is not appropriate to continue a person and pay him from consolidated fund of India without taking the work commensurate to such payments made to him. In this connection, the verdict of the Hon'ble Apex Court in the case of **P. K. Chinnaamy v. Govt. of T.N. and others**, reported in AIR 1988 Supreme Court page 78, is illustrative. In that case their Lordships of Apex Court were dealing with a situation where an employee was not given posting as per his status but salary was being paid to him without taking any work and it was held as under:



"4. In a democratic polity as ours, the bureaucracy works as the pivot for running the administration. So far as the State is concerned, matters of policy and the ultimate responsibility for running the administration is obviously on the apex body - the Council of Ministers and the Executive Head - the Governor. It

2/

-3-

cannot be lost sight of that every public officer is a trustee and in respect of the office he holds and the salary and other benefits which he draws, he is obliged to render appropriate service to the State. The scheme postulates that every public officer has to be given some posting commensurate to his status and circumstances should be so created that he would be functioning so as to render commensurate service in lieu of the benefits received by him from the State."

4. The respondents shall be well advised to ensure that public exchequer is not overburdened due to their inaction in such matter.

There is hardly any controversy to be adjudicated by this Bench of the Tribunal. It is incumbent on the respondents to take all factors into consideration and take appropriate decision at the earliest.

5. In view of the aforesaid position, the Original Application is hereby disposed of with a direction to the respondents to take appropriate decision taking into all the factors including the subsequent developments within a period of four weeks from today.

The transfer order dated 02nd August 2005 (Annexure A/1) stands quashed. The interim relief already granted gets merged with this order. No costs.



(J K KAUSHIK)
JUDICIAL MEMBER

Kumawat

Copy Received

G. D. M.

10/10/01

for mm minor standard

10/10