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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 25/2008

Date of order: 28th May 2008

**HON'BLE MR. JUSTICE A.K. YOG, JUDICIAL MEMBER.
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER.**

Adhir Jha S/o Shri Sudhir Kumar Jha, aged about 42 years, working as Addl. Commissioner of Income Tax in CCIT, Rajasthan Region, Addl. Charge - Addl. CIT (CIB), Jodhpur.

Permanent address:

Nibhan, Budha Colony, Patna - 800001, Bihar.

...Applicant.

Shri S. Bhandawat, counsel for applicant.

VERSUS

1. Union of India, through Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi.
2. The Chairman, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi.
3. Under Secretary to the Govt. of India, Ministry of Finance, Deptt. of Revenue, C.B.D.T., North Block, New Delhi.

...Respondents.

Shri Varun Gupta, counsel for respondents.

ORDER

Per Mr. R.R. Bhandari, Member (A)

The applicant, Adhir Jha, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

"1. *Thus it is humbly prayed that this application is allowed and the respondents may be directed to post the applicant in Delhi region as per the Transfer Policy laid down by the respondents for IRS officers to enable the applicant and his family to lead a normal life.*

2. *That appropriate action be directed against those*

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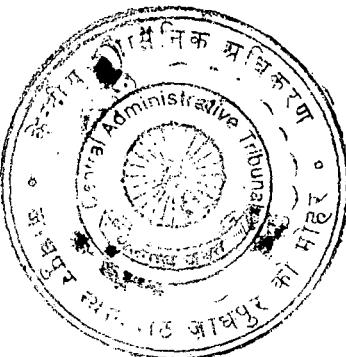
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responsible for malafide and vindictive action against the applicant.

3. That the Hon'ble Tribunal interfere and exercise its powers replacing the jurisdiction of the High Court under Article 226 to ensure rule of law by the observance of fundamental rights by the respondents and direct them to amend the policy suitably to avoid scope for nepotism and favouritism.
4. Any other relief as may be considered just and proper may be given to the applicant.
5. That costs be awarded to the applicant as unnecessary and unwanted litigation is being thrust upon him due to arbitrary and discriminatory action by the respondents."

2. A brief factual matrix of the case as brought out in the O.A. and in the averments made by the learned counsel for the applicant, are as follows:

(i) The applicant, Shri Adhir Jha, was posted at Mumbai from 13.04.1993 to 31.05.1995. He was posted at Pune from 01.06.1995 to 21.07.2000. He was posted at Delhi from 24.07.2000 to 26.07.2005. Presently, he is posted at Jaipur/Jodhpur from 28.10.2005 onwards. Mumbai, Pune and New Delhi are 'A' class stations while Jaipur and Jodhpur are 'B' class stations.



(ii) He had filed an O.A. No. 189/2007 in this very Bench of the Tribunal, which was disposed of vide order dated 25th September, 2007 giving directions to the respondents to decide his representation regarding posting him at Delhi.

Adhir Jha

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(iii) The applicant made a representation, which was disposed of by the respondents vide order dated 11th December, 2007 (Annexure A/1). The operative portion of this impugned order is reproduced as under: -

"1 to 3. xxxxx

4. WHEREAS the representations of the officer were duly considered by the Placement Committee from time to time. From 2006 onwards in terms of Para 6.4 of the amended Transfer Policy, 2005 circulated vide CBDT letter No. A-35015/32/2004-ADVI (Pt.) dated 14th Nov., 2006, it also became mandatory for officers coming back from deputation from Mumbai/Delhi stations to be posted out of Delhi/Mumbai if they had predominantly served at "A" stations only. Shri Jha, till his posting to Rajasthan Region effected vide order dated 26.10.2005, had only worked at "A" stations for more than 13 years continuously. Thus, without the minimum cooling off of two year at B/C stations, Shri Jha was not eligible for posting to Delhi under the existing transfer guidelines.

5. WHEREAS Shri Jha given additional charge of post of Addl. DIT (PR, PP & OL) and later Addl. DIT (BPR), Delhi. This was done as the officer has requested for a posting in Delhi.

6. WHEREAS the contention of the officer that though eligible for posting to Delhi his request for Delhi has not been accepted is to be seen in the context that no officer has the right to demand a specific post/station and Shri Jha in any case is not eligible for posting to Delhi without working for two years at B/C stations, as per extant Policy.

7. AND THEREFORE the matter has been independently reviewed in the light of Hon'ble Tribunal's directions and in the light of the provisions of the Transfer Policy and the representation of Shri Adhir Jha and it has been decided by the Competent Authority that the Order giving him additional charge as Addl. DIT (BPR), New Delhi be cancelled with immediate effect. Shri Adhir Jha is free to make representation for posting to Delhi after working for two years at B/C stations as prescribed under the Transfer Policy.

8. This issues in compliance of the directions of the Hon'ble CAT, Pr. Bench, Jodhpur order in OA

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No. 189/2007."

(iv) Learned counsel for the applicant submitted that the representation of the applicant was not decided in a quasi-manner and that he was transferred out of Delhi against the norms and the transfer policy as was in force in the year 2005. He also submitted that the amendment in the transfer policy issued on 14th November, 2006 kept at Annexure A/13 was a later thought and should not be applicable to him. He further mentioned that there are many other officers who are similarly placed but have not been displaced out from "A" class stations.



(v) In support of his arguments, he submitted a copy of the Central Administrative Tribunal, Principal Bench, New Delhi, order dated 13th October, 2006 in O.A. No. 1510/2006 and batch.

3. We have gone through the policy as existed in the year 2005, its amendment in the year 2006, various documents on record, C.A.T., Principal Bench, New Delhi order in O.A. No. 1510/2006 and batch and considered the arguments made by the learned counsel.

4. The fact of the case is that at present the applicant is posted at Jodhpur and seeks his transfer to Delhi. This can only be done by a positive act of transfer order to be issued by the

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respondents. The impugned order dated 11th December, 2007 makes it very clear that "Shri Adhir Jha is free to make representation for posting to Delhi after working for two years at 'B'/'C' stations as prescribed under the Transfer Policy." It is quite clear that Shri Adhir Jha has been working for over two years at 'B'/'C' stations and therefore can make representation as mentioned in the impugned order. We direct the applicant to do so and we expect that the respondents would consider the representation specially that the applicant's spouse is a Central Government employee posted at Delhi and that his son is having some medical problems as mentioned in the O.A.



5. Original Application No. 25/2008 is disposed of with the above observations and directions. No order as to costs.

R.R. Bhandari
 [R.R. Bhandari]
 Member (A)

A.K. Yog
 [A.K. Yog]
 Member (J)

Kumawat

part II and III destroyed
in my presence on 15/12/2014
under the supervision of
section officer () as per
order dated 19/8/2014
Section officer (Record)

Recd Copy

~~29-5-28~~
(As per Pwrr)
for Vanshika

Recd
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