

1/c

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 181/Jodhpur/2012.

Date of decision: 09.05.2012

CORAM :

HON'BLE MR. B.K.SINHA, ADMINISTRATIVE MEMBER.

Gajendra Mehta S/o Late Shri Narpat Singh Mehta
Aged 52 years, R/o 437-'D' Road Sardarpura,
Jodhpur, presently working as JE E/M in the
Office of the G.E., Nasirabad (Rajasthan).

: Applicant

[By Mr. P.S.Chundawat, Advocate]

Versus


1. Union of India through the Secretary,
Ministry of Defence, Government of India,
New Delhi.
2. The E-in-C's Branch,
AHQ, Kashmir House, Rajaji Marg,
DHQPO, New Delhi - 11.
3. The Chief Engineer (MES) H.Q. Southern Command,
Pune - 01.
4. The Chief Engineer Bhopal Zone,
Bhopal, Military Engineering Services (MES),
HQ Bhopal Zone.
5. G.E. (MES), Banar (Jodhpur).
6. G.E. (MES), Nasirabad (Rajasthan).

: Respondents

O R D E R

Heard the learned Counsel for the applicant.

2. The applicant is working as JE E/M in the Office of Garrison Engineer, MES, Banar in Jodhpur. It is pleaded in the application that his name has been included in the list of the individuals completed six years in CE, Bhopal Zone at Sl.No. 2 of JE E/M in the statement Appendix -'A' attached with the letter dated 01.02.2011 enclosed with the O.A. as Annex. A/4. The counsel representing the applicant



argued that the applicant has made representations to the Chief Engineer, Southern Command for ascertaining the correctness of the Seniority List dated 27th August, 2007. It is stated that the applicant was provided a Station Seniority List enclosed as Annex.A/15 which shows that there are four other officers who are senior to him in the matter of stay at a particular station. The simple case of the applicant is that as per the transfer policy and the existing Guidelines communicated vide letter No. 79040 /E1C(i) dated 17th of October, 1974 (Annex.A/2) read with the letter dated 31st August, 1994 (Annex.A/3) issued by the Directorate of Coor. & Pers., E-In-C's Branch, Army HQs., Kashmir House, New Delhi, the four officers who have been transferred-out before the case of the applicant was taken-up for transfer is against the guidelines and the policy on the issue. For easy reference, Para 6 of the Circular No. 79040 dated 17th October, 1974 reads :

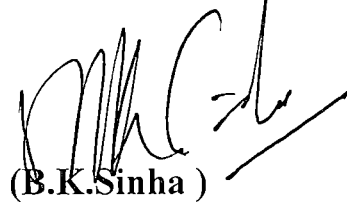
"6. Longest Stayee : When transfers are inevitable, volunteers will be given preference provided they have served in the station for 2 years. In the absence of volunteers, the longest stayee will be moved. When promotion is involved it is the promotee who should move in the absence of volunteers. In determining the longest stayee in a station all MES Units including GE's Office located in that station and adjacent localities will be taken into consideration. The seniority in that station will be decided by the Chief Engineer, Grouping of various Units in a station including adjacent localities will be decided by the CE Command."

The applicant has filed several representations also in regard to this, which have not been disposed of by the respondents. It is stated that the applicant has moved and joined at his new place of posting and it is the Command Headquarters who is to decide postings.

3. Considering the arguments of the learned Counsel and after perusing the entire records including the policy/guidelines regarding

the transfer(s) of civilian subordinate personnel in the MES, I am of the view that the O.A. be remanded to the Headquarters, Southern Command (Respondent No.3) with a direction that he should dispose of the representations filed by the applicant taking into consideration the provisions of the aforementioned two Circulars by a reasoned and speaking order within a period of three months from the date of this order. Ordered accordingly. It is further directed that the competent authority will take into account the contents of the seniority list Annex.A/17 also, wherein a list of applicant's seniors have been provided and shall certify the correctness of the same, while passing orders on applicant's representation. It is also directed that in the case the competent authority reaches to the conclusion that there has indeed been an infringement of the Guidelines under reference in paragraph 6 of the order which take the place of subordinate legislatures, appropriate relief should be provided to the applicant.

4. With the above directions, the O.A. is disposed of at the admission stage itself. Let a copy of this order along with the paper book be sent to the respondents.



(B.K. Sinha)
Administrative Member