

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.248/2013

Jodhpur this the 9th day of July, 2014

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Jagmohan Singh Rawat s/o Shri Mukund Singh Rawat, aged about 53 years, resident of Qtr. No.7, Type-3, CPWD Colony, Opposite Church, Jaipur Road, Bikaner-334004, at present employed on the post of Asst. Engineer (Elect), Bikaner Central Elect Sub Division, CPWD, GPRA Opposite Church, Jaipur Road, Bikaner.

.....Applicant

By Advocate: Shri J.K.Mishra

Versus

1. Union of India through Secretary to the Govt. of India, Ministry of Urban Development, CPWD, Nirman Bhawan, Maulana Azad Road, New Delhi.
2. Director General (Works), Central Public Works Department, Nirman Bhawan, Maulana Azad Road, New Delhi.
3. Executive Engineer (Elect), Jodhpur Central Electric Division, CPWD, Nirman Bhawan, 3, West Patel Nagar, Circuit House Road, Jodhpur

.....Respondents

By Advocate : Mr. K.Parveen

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

In the present OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

(i) That impugned order dt. 22/23.7.2010 (Annexure A-1) and order dated 11.4.2013 (Annexure A/2) and OM dated 14.6.2013 (Annexure A/2) may be declared illegal, qua the applicant and the same may be quashed accordingly. The applicant may be



allowed with all consequential benefits as if the impugned orders were never in existence.

(ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iii) That the costs of this application may be awarded.

2. Brief facts of the case, as stated by the applicant, are that the applicant was initially appointed to the post of Junior Engineer (Elect) in Amritsar Central Electric Division and posted as Bikaner Central Elect Sub Division on 13.03.1981. He was promoted to the post of Asstt. Engineer (Elect) w.e.f. 02.07.2008 on the basis of seniority cum suitability (and not under LDCE) and posted at Bikaner Central Sub Division on Jodhpur Central Elect Division. He was posted from Jodhpur Central Elect Division Station, Sriganganager to present station i.e. Bikaner and he joined on 02.07.2008. That applicant has stated that as per transfer policy dated 01.04.2010 the Assistant Engineers who have completed 50 years of age and ladies shall normally not be posted to hard area or out of region and similar provision has been there in para 2.2 (vi) of the corrigendum dated 27.04.2010 providing that officer below 50 years of age on the date of promotion to the grade of Assistant Engineer against seniority quota and where region seniority is already covered in inter regional transfer shall be posted outside the region. In the revised list of Assistant Engineer (Elect) under Northern Region who are below 50 years as on 1.5.2010 for effecting transfer, name of the applicant was included at Sl.No.24. The applicant and similarly situated persons filed OA No.1936/2010 before the CAT, Principal Bench, New Delhi whereby

the transfer policy has been upheld. Thereafter the applicant was transferred from Northern region to North Eastern Region vide order dated 22/23.07.2010 and the same was challenged in OA No. 211/2010, which was disposed of vide order dated 17.08.2010 with direction to the respondents to examine the representation of the applicant within a period of one month. Thereafter he has filed OA No.392/2012 and exhaustive representation but no relief has been given by the respondents. The applicant has stated that he has completed 53 years by now and his case is out of the purview of the inter-regional transfer policy, but due to discrimination and extraneous reasons, the applicant has been transferred, therefore, he has filed this OA praying for the reliefs as extracted above.

3. The respondents by way of filing reply submitted that as per the inter regional transfer/posting guidelines issued vide letter dated 01.04.2010, an Assistant Engineer with age less than 50 years as on 1st January of each year/5th April for the year 2010 shall be considered for inter-regional transfer. The age of the applicant was less than 50 years as on 5th April, 2010 and he was eligible for inter regional transfer as per the guidelines. Accordingly his name was recommended for transfer and he was transferred from Northern Region to North Eastern Region vide order dated 23.07.2010 as per the guidelines being the longest stayee Assistant Engineer (Elect) in Northern Region. As the applicant was below the age of 50 years as on 1st May, 2010, therefore, his transfer order is rightly passed. Hence, the contention raised by the applicant is absolutely baseless and not

tenable and sustainable in the eye of law and is OA is liable to be dismissed.

4. Heard both the parties. Counsel for the applicant contended that the applicant has been transferred vide Annexure-A/1 dated 22/23.07.2010 whereas he has completed 50 years of his age on 29.06.2010. The counsel for the applicant further contended that as per the reply of the respondents they have prepared a list in May, 2010 and considered the cases of the persons who have not completed 50 years of age as on 05.04.2010. Therefore, the applicant has been transferred vide Annexure-A/1 from Northern Region to North Eastern Region. Counsel for the applicant further contended that the applicant is at present working in the Northern Region and now he has been transferred at a very distant place in North Eastern Region. He further contended that the case of the applicant is required to be considered sympathetically by the respondent department because only one and a half month was less in completing 50 years of age on 05th of April, 2010. Counsel for the applicant further contended that although in the reply, the date has been referred as 05.04.2010 but as per Annexure-A/6 the list was prepared on 01.05.2010.

5. Per contra, counsel for the respondents contended that for Inter Regional transfers, the recommendations of the Inter Regional Transfers Committee for AEs is required and that Committee recommended the transfer of the applicant and on the date of consideration i.e. 01.05.2010, the applicant had not completed 50 years of age, therefore, his transfer is legal and it was further

contended that the applicant is transferred as per the policy as submitted by the applicant at Annexure-A/12.

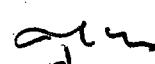
6. We have considered the rival contentions of both the parties. It is clear from the averments of both the parties that the list of the employees was prepared who have not completed 50 years of age as on 01.05.2010 and the applicant completed 50 years of age on 29.06.2010. Looking to the period span w.e.f. 01.05.2010 to 29.06.2010, it appears that the case of the applicant requires to be considered sympathetically by the Inter Regional Transfer Committee and therefore, we are proposing to dispose of this application with certain directions.

7. Accordingly, the applicant shall make a representation to the respondent department within two weeks from the date of receipt of a copy of this order and the respondent department is directed to decide the said representation within a month from the date of receipt of such representation. Further, it is ordered that the transfer order at Annexure-A/1, qua the applicant, shall remain stayed till the disposal of the representation to be filed by the applicant.

8. The OA stands disposed of accordingly with no order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

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~~19/2/14~~

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