

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00189/2015
With Misc. Application No.290/00123/2015

Reserved on: 17.03.2016

Jodhpur, this the 30th day of March, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Pritam Pal s/o Shri Tara Chand, aged about 50 years, resident of 3/25, Housing Board, Sriganaganagar, at present employed on the post of Assistant Engineer (Civil), in Sriganaganagar, Central Sub-Division CPWD, 1/1, Income Tax Colony, Sriganaganagar.

.....Applicant

By Advocate: Shri J.K.Mishra

Versus

1. Union of India through Secretary to the Government of India, Ministry of Urban Development, Central Public Works Deptt., Nirman Bhawan, Maulana Azad Road, New Delhi.
2. Director General (Admn), Central Public Works Department, Nirman Bhawan, Maulana Azad Road, New Delhi.
3. Executive Engineer (Civil), CPWD office, Sagar Road, Near SSB, Training Centre, Bikaner.

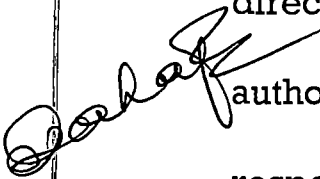
.....Respondents

ORDER

This Original Application has been filed by the applicant u/s 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- ✖ (i) That impugned order dt. 6.6.2013 (Annexure A-1) and order dated 23.4.2015 (Annexure A/2) passed by 2nd respondent may be declared illegal qua the applicant and the same may be quashed, accordingly. The respondents may be directed to exempt the applicant from Inter Regional Transfer and continue at Sriganganagar as per the policy of posting of the Husband and wife prescribed by DOPT at the same station or post him within 600 KMs as per revised policy and allow with all consequential benefits.
- (ii) 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. The applicant while working as Assistant Engineer was transferred from Sriganganagar to Western Region vide order dated 06.06.2013 (Ann.A/1) which transfer he has challenged before this Tribunal by way of filing OA No.238/2013. The said OA was disposed of by order dated 22nd January, 2015 with direction to the applicant to file representation and the competent authority to decide the same within one month thereafter. The respondents have decided the same vide order dated 23rd April, 2015 (Ann.A/2) rejecting the request of the application for cancellation of his transfer. By way of the present OA, the



06.06.2013 (Ann.A/1) and order dated 23rd April, 2015 (Ann.A/2) and prayed that the respondents may be directed to exempt the applicant from Inter Regional Transfer and continue at Sriganganagar as per the policy of posting of the Husband and Wife prescribed by DOPT at the same station or post him within 600 KMs as per revised policy.

3. In reply, the respondents have submitted that the applicant has been working in Northern Region w.e.f. 04.02.1993 and posted at different stations of Northern Region as per his PIMs record. His name appeared in the longest stayees list of the AEs (Civil) of NR and he has been transferred as per the requirement of AE (Civil) in Western Region. His transfer has been made as per the laid down guidelines, which is in order. The respondents have further submitted that Para-2 of DOPT OM dated 30.09.2009 stipulates that when both spouses are in same central service or working in same department and if posts are available, they may be posted at the same station. In the present case, the applicant is working in Central Government and his wife is working in Rajasthan State Govt. service. So it is not mandatory to post the applicant at the same station where his wife is posted. The respondents have further submitted that the applicant's transfer to Western Region under IRT, 2013 is in order and as per the guidelines. The respondents have denied the averment of the

applicant that his case has been dealt with in a mechanical way. The respondents have further submitted that the representation of the applicant was considered by the Hard Case Committee and at the time of Inter-Regional Transfer he has given option for exemption from Inter-Regional Transfer or posting in Western Region and accordingly, he was transferred to Western Region as per recommendation of the Inter-Regional Committee.

4. I have heard the learned counsels from both sides and perused the record. The applicant has submitted a detailed representation to the competent authority regarding his posting from Sriganaganagar to Wester Region vide order dated 06.06.2013. Previously, he approached the Tribunal and got the relief, inasmuch as, the respondents were directed to examine his representation in view of various guidelines of the Department and the DOPT. Finally, the respondents have rejected his application vide order dated 23rd April, 2015. The learned counsel for the applicant has pointed out various anomalies and also pointed out certain cases where some favourable bias has been shown to certain colleagues of the applicant. Secondly, he has pointed out that instead of his being considered by the Hard Case Committee, the same has been considered by the Inter Regional Transfer Committee.

5. Per contra, counsel for the respondents has countered these arguments by saying that due to imbalance of working strength in various regions, the Department is required to post the personnel at different regions. Also, though the guidelines of DOPT and various circulars issued from time to time on transfer policy are kept in mind, it is not always possible to adhere to them fully. He has also pointed out that transfers in such jobs are done on all India basis.

6. It is a fact that the Government of India has issued guidelines for the spouses working in Government Departments to be posted at same station, as far as possible. However, due to certain administrative exigencies, this may not be possible at all times. The wife of the applicant is posted as Teacher at Government School, Matili Rathan, Sriganagar. It would be unfair to presume that on account of DOPT's guidelines, the applicant should remain posted in Rajasthan for the entire remaining period of his service. I am also told that after having attained the age of 50 years, the officers are not given any hard posting. So accordingly, I direct the respondent department to take this fact into consideration and review the transfer order of the applicant as the applicant has crossed the age of 50 years and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

7. As far as the second point regarding the case having been considered by the Inter Regional Committee instead of Hard Case Committee, I think that this is a small technicality. The Inter Regional Committee determines the necessity and extent of imbalance in various regions and works out the sanction and working strength of Assistant Engineers in each region, so the ambit of examination of the Inter Regional Committee covered the needs and imbalance of personnel-regionwise. Hence, they were well within their right to consider the case of the applicant.

8. The OA as well as MA No.290/00123/2015 are disposed of in above terms, with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/