

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00242/2015
with Misc. Application No.290/00145/2015

Jodhpur, this the 15th day of March, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Hemant Bhaskar s/o Shri Pema Ram Bhaskar, aged about 38 years, resident of C/o B-32 Residency Hotel, High Court Colony, Ratnada, Jodhpur at present employed on the post of JIO/MT under Assistant Director, Regional Training Centre (I.B.), Jodhpur.

.....Applicant

By Advocate: Shri J.K.Mishra

Versus

1. Union of India through Secretary to the Government of India, Ministry of Home Affairs, Department of Intelligence Bureau, New Delhi.
2. Joint Director, Subsidiary Intelligence Bureau, 2B, Lawan Marg, Jhalana Institutional Area, Jaipur.
3. Assistant Director, Subsidiary Intelligence Bureau, 2,B Lawan Marg, Jhalana Institutional Area, Jaipur
4. Assistant Director (I.B.), Regional Training Centre, O/o SSB Complex, Bhadvasia Road, Jodhpur.

.....Respondents



By Advocate : Shri B.L.Bishnoi

ORDER

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

- (i). The impugned order dt. 19.06.2015 (Annexure A-1) may be declared illegal and the same may be quashed with all consequential benefits.
- (ii) That alternatively the applicant may be allowed to continue to perform his duty at his present place i.e. in R.T.C. Jodhpur till end of current academic session 2015-2016.

2. Brief facts of the case, as stated by the applicant, are that he initially joined his services on the post of JIO-II/MT and thereafter was posted to the Regional Training Centre, (I.B.) at Jodhpur on 17.06.2010. He made representations for grant of compensatory off, overtime allowance and for getting the vehicles insured for 3rd party, but no reply was given. On account of this, the respondents became biased, averse and have issued transfer order of the applicant from Jodhpur to Jaipur vide order dated 19.06.2015 (Ann.A/1). The applicant has alleged that the transfer order has not been issued in administrative or public interest, rather it is issued against the interest of administration as there is acute shortage of MT staff at Jodhpur. The applicant has further stated that he has old parents and two school going children who are studying in KV No.1, Air Force School, Jodhpur. That he deposited the fees of both the children for the academic session 2015-2016.

Further, there is no other member in the family to look after the old parents who are facing various old age problems and diseases. Therefore, aggrieved of the action of the respondents, the applicant has filed this OA, praying for the reliefs as extracted above.

3. In the reply, while denying the averments made in the OA, the main stand of the respondents is that the applicant has been transferred from RTC, Jodhpur to SIB, Jaipur in public interest/administrative ground. The transfer is not only an incident of service but also implicit as an essential condition of transfer and a Government servant has no vested right to remain posted at a place of his choice nor can he insist for being posted to a particular place. The respondents have further stated that the officials of the respondent department are getting benefit of cash compensation in lieu of duties performed on holidays. The applicant was also granted this benefit, therefore, compensatory off was not considered to him. On the request of the applicant to get the Government vehicle registered for third party insurance, it is stated that his controlling officer was duly informed that Government of India vehicles are exempted from getting insured.

The respondents have also stated that fact of his children's education was duly considered before transferring him to Jaipur.

It was felt that since his children are studying in the KVS, he can

get them admitted in KVS, Jaipur on transfer basis without any additional burden over fees/books etc. as the fee structure and curriculum of KVS all over India is same. Therefore, the respondents have denied the allegations of the applicant.

4. The applicant has filed rejoinder reiterating the averments made in the OA.

5. I have carefully considered the contentions of both sides and perused the record. Having gone through the facts of the case, I find that the effect and operation of the order dated 19.06.2015 (Ann.A/1) has already been stayed for almost 09 months. The allegations of the applicant regarding alleged bias by the department is not substantiated by the facts on record. The prayer of the applicant is that his children may be allowed to complete the academic session 2015-16 at Jodhpur. At the same time, it cannot be denied that the administrative exigency would necessitate the applicant getting posted to any of the field formations, as deemed necessary by the administrative department.

6. I, therefore, feel that ends of justice would be met if the stay order is continued till 31st March, 2016 when the academic session 2015-16 ends. Since the children of the applicant are studying in Kendriya Vidyalaya, a branch of which is available in Jaipur also,

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they are shifted to Jaipur after this. The Department may post the applicant to whichever place they deem fit as per their administrative requirements.

7. With these observations, the OA and MA No.290/00145/15 stand disposed of with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/