

In the Central Administrative Tribunal  
Calcutta Bench

OA No.1404 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Dr. Atiur Rahaman

Vs.

I. C. A. R.

For the Applicant : Mr. A. Chakraborty, Id. Counsel

For the Respondents: None

Heard on : 1-7-98

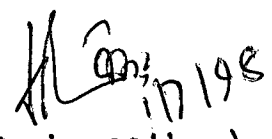
Date of Judgement : 1-7-98

ORDER

When the case is taken up for admission, none appears on behalf of the respondents. The applicant Dr. Rahaman had challenged the impugned order of transfer dated 4.9.97 (Annexure 'B' to the application) transferring him from Agronomy Division, CRIJAF to the Coordinated Research Project, CRIJAF's Headquarters with immediate effect on the ground that applicant is a heart patient and he was/5 under medical treatment till date at B.M. Birla Heart Research Institute. Id. Advocate Mr. Chakraborty, appearing on behalf of the applicant, submits that since the applicant filed this case before the Tribunal, ~~the~~ respondents did not implement the order of transfer till date and applicant was allowed to work in the previous post ~~before passing of the impugned order~~. It is a well settled law by <sup>that</sup> catena decision of the Hon'ble Apex Court, the transfer of a govt. employee under transferable service is <sup>an</sup> incidental to the service and Tribunal or Court should not interfere with the order of transfer unless the impugned order of transfer is issued with malafide or contrary to the law. In the instant case grievance of the applicant

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is that he is a heart patient and under medical treatment. Thereby, I find that the applicant could have approached the competent authority stating the grievances arising out of the transfer by filing appropriate representation; but instead of filing representation to the authority the applicant rushed to the Tribunal for getting appropriate relief. In view of the circumstances, I direct the applicant to make a representation to the authority within 7 days from the date of receipt of this order. Respondents are directed to consider the representation and to pass appropriate and reasoned order after considering the facts as stated in the representation within 2(two) months from the date of receipt of the representation and decision thereof should be communicated to the applicant within 15 days from the date of taking decision over the matter of representation. Accordingly, the application is disposed of awarding no cost.

  
( D. Purkayastha )  
Member(J)