

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
J.A. No. 279/06

Lucknow this the 9th day of June, 2006

Hon. Mr. Justice Khem Karan, Vice Chairman

Harish Kumar, aged about 39 years, son of Sri Satya Pal, R/o Village & Post Katithwari, District Meerut (U.P.), presently working on the post of C.O. Nishangarha (Nanpara) District Behraich.

Applicant

By Advocate Shri P.S. Atal

Vs.

1. Union of India through Secretary Department of Home Affairs, new Delhi.
2. Director General Special Service Bureau East Block V, R.K. Puram, New Delhi.
3. Inspector General. S.S.B. Frontier H.O. 11th Floor, Kendriya Bhawan, Aliganj, Lucknow.
4. Deputy Inspector General Sashastra Seema Bal, Sector Head Quarter Vth Building of Smt. Chnandra Singh, near Hujurpur Bus stand, Behraich.

Respondents.

By Advocate Shri Deepak Shukla for Shri Prashant Kumar.

Order(oral)

By Hon. Mr. Justice Khem Karan, Vice Chairman

1. Preliminary objection against Interim Relief filed by Shri D. Shukla be taken on record. Heard the counsel for the parties.
2. The applicant has challenged the transfer order dated 12.5.06, by which he has been transferred from Nishangarha (Nanpara) to Jamunah (Bhinga area) on the grounds inter alia that firstly this transfer is being effected in the mid of session and secondly, the applicant is being sent to a distant and remote area though he had earlier served in remotest area in Himachal Pradesh. Shri Atal has also submitted that this transfer is against the guidelines given in Annexure-7. It is said that if this transfer takes place, the applicant will have to shift his school going son from the present place to that remote area or would have to manage his affair from such a distant place. It has also been said that applicant has given representation to the Director



General, S.S.B. (force) H.Q. R.K. Puram, New Delhi, but nothing has been done so far on that representation.

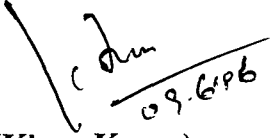
3. Shri Deepak Shukla has tried to say that the applicant is in the habit of rushing to the Tribunal on one pretext or the other and moreover, the transfer cannot be said to be in violation of the said guidelines. Shri Shukla has also taken me through the relevant portion of the guidelines. He says the place from which the applicant has been transferred and the place to which he has been transferred situate within the same region and perhaps in the same District Behraich.

4. It stands well settled by the catena of decisions of the apex court and various High Courts that the transfer being incident of service should normally be not interfered with, unless it appears to be penal in nature, or is in breach of declared policy, rule or guidelines or is otherwise actuated by any malice or appears to be motivated by political vendetta. In the instant case, the allegations of bias against the respondent No.3 cannot be taken notice of for the simple reason that he has not been impleaded in his personal capacity and also for the reason that those details which constitute bias or malice, are also wanting. The mere use of word 'bias' or 'malice' will not serve the purpose. No doubt, according to guidelines given in A-7 annual transfers should normally be ordered in March of a year, but the transfer in question has been ordered on 12.5.06. The applicant may have to face some difficulties but in every such transfer a servant has to face some difficulties. We think, when the applicant has already given a representation A-8) to the next



higher authority, proper course would be to ask that authority to look into the grievance of the applicant and pass suitable orders.

5. So, this O.A. is finally disposed of at admission stage itself with a direction to respondent No.2 to decide the representation dated 27.5.06 (Annexure 8) within a period of 15 days from the date a certified copy of this order together with the copy of such representation, is produced before him. No order as to costs.


(Khem Karan)
VICE CHAIRMAN

S.A.