

**Central Administrative Tribunal, Lucknow Bench,  
Lucknow**

**Original Application No. 258/2008**

This the 21<sup>st</sup> day of December, 2009

**Hon'ble Dr. A.K. Mishra, Member-A**

Teeka Ram, Aged about 38 years, S/o Sri Shree Ram Singh, R/o C/115, FCI Campus, Sashastra Seema Bal, Gorakhpur.

.....Applicant

By Advocate: Sri Raj Singh .

**Versus**

1. Union of India through Director General Sashastra Seema Bal, Ministry of Home Affairs, R.K. Puram, New Delhi.
2. Inspector General, Sashastra Seema Bal, Frontier Head Quarter, Kendriya Bhawan, Aliganj, Lucknow.
3. Deputy Inspector General (Medical), Composite Hospital, Sashastra Seema Bal, F.C.I. Campus, Gorakhpur.

.....Respondents

By Advocate: Sri K.K. Shukla.

**ORDER**

Aggrieved by the order dated 30.6.2008 of respondent no.1 in which the applicant, who is a member of Para Medical Staff of Sashastra Seema Bal (SSB), has been transferred from his present place of posting, Gorakhpur to Patna, this application has been made with a prayer to quash the impugned order dated 30.6.2008.

2. The applicant, while working as Laboratory Technician in SSB Frontier Headquarter was transferred to Composite Hospital, Gorakhpur on 23.12.2004. He was promoted to the rank of Deputy Field Officer (Medic) on 26.6.2006 and was retained at the same station. He made a representation on 20.12.2007 requesting for a transfer to Lucknow on the ground of his children's education. He made one more representation on 1.4.2008 on which no decision has been taken sofar. On 16.4.2008, consequent on restructuring of the organization after its transfer

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from Cabinet Secretariat to the Ministry of Home Affairs, the applicant was again posted at the same Composite hospital at Gorakhpur on 16.4.2008. There was a temporary requirement of a Laboratory Technician for the 39<sup>th</sup> Battalion, Chhatisgarh and the applicant was temporarily deployed to this Battalion on 24.4.2008. His temporary attachment with 39th Battalion came to an end on 11.8.2008. He is now working at his original place at Composite Hospital, Gorakhpur.

3. The applicant was transferred to Patna by the impugned order passed on 30.6.2008. At the time of hearing, the learned counsel for the applicant assailed this transfer order on the following grounds:

(i) The applicant is being subjected to frequent transfers, which is against the transfer policy of the Organization. According to him, the applicant on promotion to the post of Deputy Filed Officer was transferred and posted at Gorakhpur Composite Hospital on 26.6.2006. Again he was transferred and posted at the same hospital on 16.4.2008 ostensibly on account of restructuring of the Organization. Although, he was working in a higher position, he was re-deployed on 24.4.2008 to 39<sup>th</sup> Battalion to Chhatisgarh. He complied with the order and worked dutifully during the period of his temporary assignment in Chhatisgarh. Again, he is being transferred to Patna. These instances would go to prove that he is being subjected to frequent transfers in violation of the guidelines of the Government.

The respondents have clarified that the applicant has been working at Gorakhpur uninterruptedly since 23.12.2004 when he was first posted as Laboratory Technician at Composite Hospital, Gorakhpur. Even though he was promoted on 26.6.2006, he was not shifted out of Gorakhpur, but was adjusted at the same very station, although usually employees are transferred out at the time of promotion. His so-called transfer and posting on 16.4.2008 again did not involve any change of station; he was retained at the same station and the same hospital, but the order was issued arising out of technical

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requirement due to restructuring of the organization. It could not be said to be a regular transfer out of Gorakhpur. Similarly, his deployment with 39<sup>th</sup> Battalion, Chhatisgarh was a very temporary affair, it did not involve any transfer of the applicant out of Gorakhpur. In order to meet a specific exigency, which had arisen due to deployment of Battalion in Chhatisgarh in peace keeping operation, the applicant was temporarily attached to them. He continued to retain his lien at Gorakhpur and after the temporary duty was over, he has come back to his regular post at Gorakhpur. Therefore, it was argued that the plea of frequent transfers of the applicant is not based on facts. He was transferred to Patna by the impugned order on completion of his tenure of three years at Gorakhpur. It is a normal transfer order where four employees have been transferred keeping in view the administrative exigencies and the applicant is one of them.

(ii) The second plea taken by the applicant is that the transfer was made during mid academic session. When his representation for a posting at Lucknow did not materialize, he had arranged for admission of his son in XIth standard at a private school of Gorakhpur. His daughter was studying in Class Vth in Kendriya Vidyalaya, Gorakhpur. The mid session transfer could have seriously affected the academic career of his children.

The respondents have submitted that according to the Government policy, an employee could retain his official quarters till the end of the academic session and the same facility was available to the applicant. But, instead of availing himself of that facility, he has opted to challenge the transfer order which was issued in public interest. The learned counsel for the respondents submits that the applicant had made representation on 10.7.2008 for deferment of his transfer till the end of the academic session i.e. April, 2009. His representation is at Annexure A-11. Not only that the academic session for 2009 is over, the next academic session of 2009-2010

is now drawing to a close; as such, the ground of children education on which the applicant had sought for deferment, is no longer valid.

(iii) The plea advanced by the learned counsel for the applicant was that this transfer is essentially punitive in nature, although it has been made in the garb of public interest. He has referred to the office order dated 15.11.2008, annexed at Annexure R-2, which shows that a preliminary inquiry has been ordered against the conduct of the applicant involving allegations of money lending to several staff members at high interest rate and canvassing for the business interest of a private company.

The learned counsel for the respondents submits that the fact of someone's transfer could not stand in the way of conducting preliminary inquiry into allegations of misconduct. According to him, the transfer has taken place after completion of the tenure of the applicant at Gorakhpur. He has been continuing in the station since 23.12.2004 and by now is nearly completing 5 years. Besides, a Government servant has no vested right to continue at a particular station. He cited the decision of the Supreme Court in S.C. Saxena Vs. Union of India & Others reported at (2006) 9 SCC 586 in which it was held that a government servant could not disobey a transfer by not reporting at the place of posting and then going to a court to ventilate his grievance and that it was his duty report for work where he was transferred and make a representation as to what could be his personal problems and that the tendency of not reporting at the place of posting and indulging in litigation needed to be curbed.

4. The settled law is that the transfer is an incidence of public service and a government servant has no vested right to continue at a particular place. In any case, the academic session for 2009-2010 is drawing to a close. I expect that the respondents will allow the applicant to retain his official accommodation till April, 2010 so that the studies of his children will not be affected.

5. In view of the aforesaid discussions, I do not find any merit in this application, which is accordingly dismissed. No costs.

*A. K. Mishra* 21/12/09  
(Dr. A.K. Mishra)  
Member-A

Girish/-