

(AM)

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
Lucknow.

Registration (O.A. No. 208 of 1990 (L))

Dated: 17-8-1990

Prem Singh Raghav ... Applicant
Vs.
Union of India & others ... Opp. Parties

Hon'ble Mr. P. Srinivasan, AM,
Hon'ble Mr. J.P. Sharma, JM,

ORAL JUDGMENT

(Delivered by Hon'ble P. Srinivasan, AM)

This application has been listed before us for orders regarding interim relief. However, since the application is against an order of transfer, we requested counsel for both sides to address arguments on the merits of the application itself. We have heard Sri A.K. Dixit, learned counsel for the applicant and Sri V.K. Chaudhary learned counsel for the respondents.)

2. The applicant is aggrieved with an order dated 23rd March, 1990, by which the Quartermaster General's Branch, Army Headquarters, New-Delhi, transferred him from Sitapur, where he was working as Manager of the Military Farm to Dagshaj in the same post.

3. The respondents have resisted the application by filing a reply.

4. Sri A.K. Dixit, learned counsel for the applicant submitted that under the guidelines dated 14-8-1980, issued by Army Headquarters, Managers of non-cattle farms are to be retained in the same station for

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2-3 years. The applicant had joined as Manager of the farm at Sitapur only on 29-5-1989. He had not even completed one year at the same station by the date he was transferred. Even though the guidelines are flexible and a person can be transferred after a shorter tenure, the respondents have not indicated as to why they had to transfer the applicant within the period of tenure indicated in the guidelines. Earlier, the applicant was working at Mhow and was transferred to Kamptee by an order dated 10.5.1985. He approached the Jabalpur Bench of the Tribunal which quashed the transfer order as being unjust. The respondents say that the applicant was actually transferred to Sitapur by an order dated 9.2.88 and had taken a long time to join duty at Sitapur as late as on 23.9.1988. Sri Dixit submitted that for the purpose of determining the period of tenure in a particular station it is the date on which a person joined duty at the station that was to be taken into account and not the date of the order by which he was transferred to that station. If the applicant did not join at the new place in obedience to the order, action should have been taken against him, but the intervening period cannot be treated as part of the station tenure. Moreover, the reply of the respondents discloses that the applicant was being transferred because of mismanagement of the farm at Sitapur on the basis of complaints received at his back. The transfer was therefore, ordered as a measure of punishment and this could not be done without giving him an opportunity of being heard.

6. Shri V.K. Chaudhary submitted on the other hand, that guidelines regarding tenure of posting in a station

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are not mandatory, but only directory in nature. Even the order of Army Headquarters dated 14.8.1980 had clarified that transfer could be made earlier or later than the specified tenure whenever considered necessary by the competent authority for disciplinary or administrative reasons. The guidelines, however, were varied by an order dated 12.4.1989 of Army Headquarters. In the fresh guidelines, the tenure of a Manager of a non cattle farm was again fixed at 2-3 years, but it was again clarified that a person can be transferred earlier whenever considered necessary by the competent authority for administrative reasons or on grounds of ~~proper~~ performance or economy. During the period the applicant was working as Manager of the Military farm at Sitapur, it was in bad shape. The officer Incharge had reported on 23.1.1980 that the farm was in shambles and unless the Manager was changed, it could not improve. A similar report was received from the Assistant Director, Military Farm in his letter dated 11.12.1980. The said Assistant Director was writing on behalf of the Deputy ^M Director of Military Farms and he wrote that the functioning of the farm was most unsatisfactory. It was, therefore, considered necessary to transfer the applicant and to upgrade the post to that of Farm Officer in order to improve the functioning of the farm. The applicant was transferred by the impugned order from Sitapur to Dagshai. The Farm Officer posted in his place had joined ^M the duty on or about 24th July, 1990 but the applicant was continuing in Sitapur by virtue of an interim order of stay passed by this Tribunal. The transfer case having been made purely on administrative

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this Tribunal should not interfere with it.

7. We have considered the matter carefully. Transfer is a routine administrative matter and an incident of government service. This Tribunal would be slow to interfere with a transfer unless it is shown to be malafide or illegal. We agree with Shri Chaudhary that the period of tenure fixed in the guidelines is not mandatory and transfer can be made before the expiry of that period. What remains to be seen is whether the transfer impugned in this application was punitive. In the case of the earlier transfer of the applicant which was quashed by the Jabalpur Bench of the Tribunal, it was held that the applicant had been transferred to a place where the sanctioned post was a lower post. The Bench also noticed that ^{the} transfer was sought to be justified on disciplinary grounds. In the present case, there was no doubt a report that the functioning of the farm was in shambles. This involved mainly the viable functioning of the farm. Obviously the authorities were concerned about the proper functioning of the farm, and in their endeavour to improve it, they felt that one of the measures to be taken for the purpose was to transfer the applicant. The post had also been upgraded to that of a Farm Officer, even though it was done after the applicant was transferred. This also shows the concern of the authorities for the proper running of the farm. Therefore we are satisfied that the transfer was made primarily for administrative reasons, mainly to improve the functioning of the farm at Sitapur. The fact that the applicant's performance was found to be unsatisfactory, another aspect of the matter.

8. Sri Dixit submits that applicant for arrears of

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8. Sri Dixit submits that a number of claims of applicant for arrears of salary are still pending with

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authorities even though the Jabalpur Bench of the Tribunal had directed that they be settled. Shri V.K. Chaudhary submits that this~~is~~ was due to the fact that the applicant was not responding to ~~the~~ letters seeking clarification. Subject to satisfactory clarification being given ^{by} ~~by~~ the applicant on the points raised by the respondents, ^{the respondents} will settle all the pending claims of the applicant within a period of three months from the date of receipt of this order.

9. In view of the above, we feel that the decision of the Jabalpur Bench in the earlier case has no bearing on the facts of the present case. In our view, this application is devoid of merit. It is, therefore, rejected at the admission stage itself, leaving the parties to bear their own costs. The interim order passed in this case stands vacated.

MEMBER(J)

17.8.90

MEMBER(A)

17/8/90