

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 283 of 2010

This the 11th day of March, 2011

Hon'ble Mr. Justice Alok K Singh, Member-J

P.P. Shukla, Aged about 42 years, S/o Sri G.P. Shukla, R/o House No. 340/8 Kha Triveniganj, Naubasta, P.S. Bazar Khala, Lucknow.

.....Applicant

By Advocate : Sri Ankit Srivastava for Sri Anurag Srivastava

Versus.

1. Union of India through its Secretary, Ministry of Home Affairs, New Delhi.
2. Director, Directorate of Co-ordination (Police Wireless), Block no.9, CGO Complex, New Delhi.
3. Deputy Director (Administration) Directorate of Co-ordination Police Wireless, Ministry of Home Affairs, Block no.9, CGO Complex, New Delhi.
4. Extra Assistant Director, ISPW Station, Mahanagar, Lucknow.

.....Respondents.

By Advocate : Sri Rajendra Singh for Sri R. Mishra

O R D E R (Oral)

Heard the learned counsel for the parties and perused the pleadings on record.

2. This O.A. has been filed for issuance of appropriate orders and for setting-aside the impugned order dated 11.6.2010 issued by Opposite party no.3 whereby the request of the applicant dated 31.5.2010 for further stay at Lucknow was not acceded to. Secondly, the relief has also been sought for setting-aside the impugned transfer and relieving orders dated 31.3.2010 and 5.5.2010 (Annexure no.2 & 8 respectively.)
3. Before entering into the merits of the case, it is worthwhile to mention that earlier an O.A. no. 214 of 2010 was filed by the

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applicant. This Tribunal had disposed of it finally on 28.5.2010 with following directions:

"In view of the fact that he has come from Delhi on transfer to Lucknow only two years back and in consideration of his assurance that he is prepared to go on transfer from Lucknow next year any time after the end of March, 2011. He is directed to make a fresh representation before the competent authority setting forth his specific problems related to completion of BA-II year course of his daughter and his respondent authorities are directed not to initiate any coercive action against the applicant till disposal of fresh representation to be filed by the applicant. While deciding his representation, the respondents should give a reasoned and speaking order.

The O.A. is disposed of accordingly. No order as to costs."

4. In furtherance of the aforesaid order, the impugned order dated 11.6.2010 was passed after considering the matter at length. At the outset, it is mentioned that the applicant being the employee of DCPW applied for retention at ISPW station, Lucknow till end of March, 2011 against the Directorate's transfer order dated 31.3.2010 and his request was considered. It is said that the Directorate has 31 Inter State Police Wireless (ISPW) stations at all State/Union Territory capitals of the country and in general these stations are working round the clock in order to cater the operational requirement. Therefore, the staff is liable to be transferred anywhere in India. Accordingly, the applicant, who is working as D/Mechanic was ordered to be transferred from Lucknow to Panaji. Earlier, the applicant had joined at Lucknow in the year 1998 and after about 08 years, he was transferred to ISPW station, Kavaratti on 3.8.2006 due to administrative requirements. Subsequently on 9th June, 2006 the applicant had requested for cancellation of transfer or change of posting to Delhi on the grounds of Daughter's study, daughter's neurological problem and father's heart ailment. His request was considered and he was posted to Delhi where he joined on 17.10.2006. Then, again in February, 2008 the applicant had applied for transfer to Lucknow on extreme compassionate grounds for the treatment of his father's heart problem, mother's arthritis problem and daughter's neurological problem. His request was again considered and he was transferred to Lucknow vide order dated 13.3.2008 even though he had not completed his tenure of three

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years at Delhi. Thus, he joined in ISPW station, Lucknow on 18.3.2008.

5. As per the transfer policy, the tenure of posting on compassionate ground has to be only one year. But even then the applicant was transferred from Lucknow to Panaji only after two years due to pressing operational requirements. He again represented for his retention at Lucknow on the grounds of his father, mother, wife's sickness and his daughter's education, but his request could not be acceded to due to operational reasons. Then, the applicant reported sick on 13.5.2010 and stopped himself from attending the office. Since there was an urgent requirement at Panaji, he was relieved from Lucknow with the direction that after his medical fitness from sickness, he shall report there (Panaji). Finally, therefore, his request was rejected by passing a detailed order dated 11.6.2010 (Annexure-1).

6. During the pendency of O.A., an interim order was passed by this Tribunal on 13.7.2010. Taking into consideration the educational interest of the applicant's daughter, the applicant was asked to move a fresh representation before the competent authority highlighting this aspect within two weeks. It was expected that no coercive action shall be initiated against the applicant till disposal of fresh representation, which was, however, rejected keeping in view certain facts and circumstances and also on account of pressing operational requirements at Panaji vide order dated 11.8.2010 (Annexure 14).

7. Consequently, the amendment was sought by the applicant for bringing these facts on record, which was allowed and the relevant amendment was incorporated adding new relief to the effect.

8. In view of the above facts and circumstances, it is needless to go into the other details. It is significant to note that as on today as the pleadings of this O.A. stand, the applicant himself stands committed to move after March, 2011, which is going to expire within 2-3 weeks. Orally, it has been mentioned on behalf of the applicant that the papers of his daughter would come to an

end on 20th April, 2011. But in support of this, nothing has been brought on record. Otherwise also, even though it is so, the applicant can very well manage the affairs by permitting his family to stay at Lucknow till 2-3 weeks further, if he so desires.

9. In view of the above, none of the impugned orders are required to be quashed/set-aside at this stage. It is hoped that as per his own undertaking, the applicant shall comply with the impugned transfer order immediately after the end of March, 2011 and shall join at Panaji. At the request of the applicant, it is made clear that the applicant shall be entitled to TA/DA in accordance with rules. O.A. is accordingly disposed of. No order as to costs.

Alok Kumar Singh
(**Justice Alok K Singh**) 11.3.11
Member-J

Girish/-