

(A.S.L.)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 120 of 1992

Ved Prakash Verma Applicant.

Versus

Union of India & ors. Respondent

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K.Obayya, A.M.

(By Hon'ble Mr. K.Obayya, A.M.)

1. The applicant who is a civilian employee working as U.D.C. in the Army Medical Corps (Records) Lucknow, has approached the Tribunal praying that his transfer order from Bareilly to Lucknow, and punishment of ~~censure~~ be quashed and that he be declared to have crossed efficiency bar from due date.

2. The applicant whose initial appointment in 1962 at Bareilly was as L.D.C. in Jat Regiment (Records) was promoted as U.D.C. in 1981. According to the applicant during the year 1987 he applied for compassionate posting indicating preferences to places like Delhi, Kanpur, Lucknow, Allahabad and Agra, which was considered and via order dated 9.6.1989 he was transferred to Lucknow Army Medical Corps (Records). The applicant was relieved on 21.6.1989 with a movement order to Join at new station, where he Joined only on 12.8.1989 after undergoing medical treatment for his heart problem in the intervening period for which he sought medical leave.



3. It is contended by the applicant that though he had asked earlier for transfer to Lucknow, Delhi etc places, because of changed family circumstances, he requested cancellation of the transfer. There was also a reference from Head Quarters which was willing to cancell the transfer order in case the applicant was not willing to move, but notwithstanding this the transfer was given effect to. The applicant alleges that the order was against guide lines and the result of pick and choose policy adopted by respondents.

4. The respondents have refuted this contention and in their reply it is pointed out that the transfer was a request transfer on compassionate ground as can be seen from the request letter of the applicant on record as Annexure CA-1 and that there was not violation of any guideline.

5. We have heard the counsels of the parties and we have also gone through the guidelines. The applicant had already spent a long tenure at Bareilly and his transfer was made on request on compassionate ground. His representation for transfer back to Bareilly was considered by the department which ^{to} acceded his request. Vide order dated 23.4.1992 he was transferred to Bareilly on medical ground. However, it is mentioned in the order that the individual will be despatched to his new Record Office after receipt of confirmation regarding the availability of vacancy from the receiving record Office and the move of the individual will not be withheld till arrival of

replacement. In view of this, the prayer of the applicant regarding for transfer from Lucknow to Bareilly has been granted and the application to this extent has become infructuous. Even otherwise, since his transfer to Lucknow and now back to Bareilly were both at request on compassionate or medical grounds, The applicant cannot raise a legitimate grievance against it.

6. There was disciplinary proceeding against the applicant for which he was charged on 30.11.90. The charge related to the failure of the applicant to send Appendix 'G' to SAO 5/S/76 in respect of Safaiwali Margaiah which was verified and signed by the Section Officer and as a result of this failure, the AG-I Claim of NCO could not be submitted to Head Quarter in time. The applicant submitted his representation and after considering his representation, an award of punishment of censure against the applicant was passed. This punishment order was assailed on the ground that the Disciplinary Authority has not verified the facts and the enquiry was not held, though the enquiry was essential to prove that the letter was received by the applicant. The applicant had also filed an appeal against the same which has not been decided. The applicant has stated that he had been transferred to Lucknow and he was called upon to deal with 602 documents where as, as per yard stick he was to deal with only 375 documents, that is why he was not capable to manage the work properly and efficiently. In as much as the punishment imposed was a minor penalty and no elaborate enquiry was called for and the Disciplinary Authority was within his right to consider the representation and pass the

81

order of censure. We do not see any ground calling for interference in the disciplinary matter. However, it would appear that the applicant has preferred an appeal against the punishment order but that has not been disposed of. The appellate authority may consider the appeal and pass suitable order taking into consideration the plea raised by the applicant. This may be done within a month from the date of communication of this order.

7. Regarding crossing of efficiency bar, it is stated by the respondents that the Departmental Promotion Committee which was held on 8.5.91, considered his case and as his service was found to be not satisfactory with number of memos of warning/advise issued, Departmental Promotion Committee considered that he was not fit to cross the efficiency bar above Rs. 1560/- w.e.f. 1.4.91 in the Upper Division Clerk Scale 1200-30-1560-EB-40-2040/-. It would also appear that the punishment of censure awarded on 30.10.90 was taken into consideration. As the applicant has preferred an appeal against this punishment and in case the appellate order goes in favour of the applicant, The review DPC may be held to consider the case of the applicant for crossing the efficiency bar and they can have a fresh look at record and give the recommendations one way or the other on merit. XXXXXXXXXXXXXXXXXXXXXXX, The application stands disposed of, with the observations and directions contained above. No order as to costs.

R. Bhambhani
Member (A)

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Vice-Chairman

Lucknow Dated: 25/11/1993

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