

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, Lucknow.

O.A. NO. 501 of 1992.

Mohammad Ali Khan

Applicant

versus

Union of India & others.

Respondents.

Hon. Mr. S.N. Prasad, Member Judicial.

The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the impugned transfer order dated 12.9.92 along with the movement order dated 24.9.92 contained in Annexure No. 4.

2. The main grievance of the applicant appears to be that the impugned transfer order is malafide one and has been passed at the instance and at the behest of the respondent No. 3 Shri K.K.Mishra, Lt. Col. Army Central Command, Stationery Depot, Lucknow. According to the applicant he pointed out certain irregularities committed by him ^{as} and ^{it} would be obvious from the perusal of Annexure ^{to the}

^{application} and as such the impugned order order be quashed.

3. Inshort reply filed by the respondents, it has been interalia, contended that the impugned transfer order has been passed by the respondent No. 2 on administrative grounds and the impugned

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transfer order is not based on any malice or jealousy ^{between} ~~of~~ ^{the applicant and the} respondent. No. 3; it has further been contended that the applicant has already been relieved off and has handed over the charge and the charge has been taken over by the incumbent which has been transferred in his place as would be obvious from the perusal of Annexures C-1 to C.3. It has further been contended that the services of the applicant are urgently required at the transferred place as the telegram has been received to this effect which is Annexure C.4 and as such the application of the applicant is devoid of merit and ^{should} be dismissed.

4. I have heard the learned counsel for the parties and have gone through the material on record.

5. This is noteworthy that from the perusal of reply on behalf of respondents, read together with Annexures C-1 to C-4 it is apparent that the applicant has been relieved of and has handed over the charge on 24.9.92 and the incumbent who has been transferred in his place has taken over the charge from him. It is also apparent that the impugned order of transfer has been passed by the respondent No. 2 and not by the respondent No. 3, and it is apparent from the perusal of Annexures C-1 ~~to C-4~~ that the impugned order has been made on administrative grounds. Thus, this being

^{^ and ^}
so from the scrutiny of the entire evidence and material
[^]
on record no malice has been found between the applicant
and respondent No. 2 who is ^{the} officer by whom the impugned
order of transfer has been passed.

5. This is also significant to point out that
from the scrutiny of the entire material ^{^ and evidence ^} on record
it is apparent that the applicant has stayed for about
7 to 8 years at Lucknow. This is needless to emphasize
that as enunciated by Hon'ble Supreme Court, in the
case of Union of India vs. H.N. Kirtania (reported in
(1989) Part III, S.C.C. page 455) that transfer is an
incident of service and the employee who is holding
a transferable post, may be transferred at any place
and the employee has no right or no claim for being
retained at a particular station of his choice. Keeping
in view the above principles of law ^{enunciated} by
the Hon'ble Supreme Court, I find that the application
of the applicant is devoid of merit and is liable
to be dismissed.

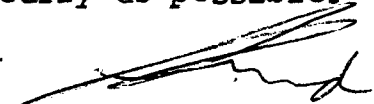
6. Before parting with the case, I would like
to point out that it has been contended by the learned
counsel for the applicant during the course of the
arguments that the applicant has not been paid T.A.
in advance and as such he may not be in position to
proceed to the place of his transfer. Keeping in view
the fact that he has already handed over the charge

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there may be technicalities on the part of the respondents in paying T.A. in advance. Be as it may, it is incumbent, rather bounden duty of the respondents to pay T.A. advance to the applicant within a week's time or as early as possible on submission of the application by the applicant ^{to enable him to join the}

^{place of duty where he has been transferred.}

7. In ~~the~~ result, the application of the applicant is dismissed without any order as to costs. It is made clear that on receipt of application by the applicant, within a week, the respondents shall pay T.A. advance to the applicant as early as possible.


Member Judicial 30.9.92

Lucknow: Dated: 30.9.92.