

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 596/92

V.S. Bhatnagar

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 order dated 27.10.92 transferring the applicant from Lucknow to Raipur (State of M.P.).

2. Succinctly stated, the facts of the case inter alia, are that the applicant was posted as U.D.C. under respondent No. 4 with effect from October 1991, as Upper Division Clerk and has been working since then. But to his utter surprise and against the policy guidelines during the mid session the applicant has been transferred from Lucknow to Raipur (State of Madhya Pradesh) by the impugned order dated 27.10.92 (Annexure-3) which is in violation of policy guidelines of the department concerned (Annexure-4), which is alleged to be malafide and colourable exercise of power, as the applicant has been transferred during mid session. It has further been mentioned that the representation of the applicant which is dated 6.11.92 (Annexure -6), which

2

has been addressed to respondent No. 3, is still lying undecided.

3. I have heard the learned counsel for the parties and have gone through the record of the case.

4. The learned counsel for the applicant, while drawing my attention to the contents of the application and papers annexed thereto has urged that the grievance of the applicant would be substantially redressed if the respondents are directed to decide the above representation of the applicant in accordance with the extant rules, regulations and orders by a reasoned and speaking order within a reasonable time and till the decision of the above representation, the operation of the impugned order may remain stayed.

5. This is important to point out that from the perusal of the record it is apparent that the representation of the applicant dated 6.11.91(Annexure-6) which has been addressed to respondent No. 3, is still lying pending and undecided. This fact should not be lost sight of that transfer norms(Annexure-4) inter alia make mention that members of Group C and D Categories staff should be posted near their home town as far as possible and while issuing transfer orders, due consideration should be given to the fact that transfer to the long distance from home town is likely to cause hardship.

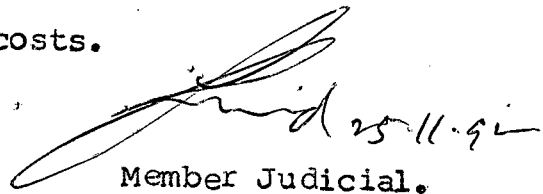
6. This fact should also be not lost sight of

Ag

that the impugned transfer order has been passed during the mid session and it goes without saying and as mentioned in the above representation, the impugned transfer order will not only entail immense hardship to the applicant and to the family members as well but will mar ^{the} career of the children of the applicant by disturbing their studies ⁱⁿ mid-session.

7. Having considered all the view points and facts and circumstances of the case and all aspects of the matter, I find it expedient that the ends of justice would be served if the respondents are directed to consider the representation of the applicant dated 6.11.92 (Annexure-2) by a reasoned speaking order in accordance with extant rules, regulations and orders in this regard from proper perspective, keeping in view the above observations ^{as early as possible, latest} within a period of two months from the date of receipt of a copy of this judgment ^{and} till the decision of the above representation of the operation/impugned transfer order dated 27.10.92 (Annexure No. 3), as far as the applicant is concerned, shall remain stayed; and I order accordingly.

8. The application of the applicant is disposed of as above. No order as to costs.

 25.11.92
Member Judicial.

Lucknow: Dated 25.11.92.