

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A

O.A.NO.: 566 OF 2005[Patna, this Wednesday, the 14th Day of September 2005]C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.
HON'BLE SHRI MANTRESHWAR JHA, MEMBER [ADMN.]

Gopal Krishna Jha, son of Shri Anant Jha, resident of village and P.S.: Sarsi, District ; Purnea, presently working as Garrison Engineer, Danaput Cantt., District : Patna.APPLICANT.

By Advocates :- Shri P.N.Shahi.
 Shri S.K.Bariar.

Vs.

1. The Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.
2. The Directorate General [Personnel] Engineer in Chief's Branch, Kashmir House, Army Headquarters, D.H.Q. P.O., New Delhi-110 011.
3. Headquarters Chief Engineer, Central Command, Lucknow Cantt.
4. Headquarters Chief Engineer, Jabalpur Zone, Bhagat Marg, Jabalpur Cantt – 482 001.
5. Headquarters Commander Works Engineer, Dipatoli Cantt., Ranchi-834 009.
6. Shri K.K.Ojha, son of not known to the applicant, [Executive Engineer transferred in place of the applicant but charge not effected], C/o Headquarters Commander Works Engineer, Dipatoli, Ranchi – 834 009.RESPONDENTS

By Advocates :- Shri Rajesh Kumar, ASC
 [Appearing on behalf of Shri M.K.Mishra, SSC]
 Shri Gautam Bose [For Pvt. Respondent].

O R D E R [ORAL]

Justice P.K.Sinha, VC :- The applicant, vide order dated 16.01.2004



issued by the competent authority at Annexure-A/1, was transferred to the post of Garrison Engineer, Danapur cantonment. Thereafter, by order dated 24.05.2005 [Annexure-A/10] he again was transferred to CE, Kolkata Zone as Dy. Director against which this applicant moved this Tribunal in OA 531 of 2005 which was disposed of by order dated 16.08.2005 under which, finding that the representation against the transfer filed by the applicant was still pending, respondent no.2 was directed to dispose of that ~~representation~~ application. That ~~representation~~ was rejected by a speaking order dated 24.08.2005 at Annexure-A/23, whereafter the instant application was filed.

2. The learned counsel for the applicant and learned Sr. Standing Counsel representing the respondents were heard on 31.08.2005 in which the learned Sr. Standing Counsel ^{had} defended the transfer stating that in the speaking order it was clearly mentioned that his transfer and appointment out of Danapur was not a punishment posting at all, and also submitted that such transfer before expiry of the period of stay would not attach any stigma to the applicant.

3. This Tribunal, however, noticed from Annexure-A/23 that it was claimed that the transfer was effected in view of para 36 of the Cadre Management of MES Civilian Officers Guidelines [Annexure-A/11]. That portion of guidelines provided certain conditions for curtailing a tenure posting at a station and it was also noticed by the Tribunal that in Annexure-A/23 it was also mentioned that the applicant was not able to



provide the required type of quality and timely service.

Noticing that the applicant had challenged the transfer on various grounds, including the ground of malafide and abuse of power, this Tribunal wanted to satisfy itself as to whether the conditions as laid down in para 36 aforesaid were complied with. The respondents were directed to produce the record concerning the transfer of the applicant or at least the documents by which the authorities mentioned in para 36 had recommended before-tenure-transfer of the applicant. Today the official records have been placed and we have perused the same.

4. The learned counsel for the applicant submitted that as evidenced from various annexures, the work of the applicant was appreciated by the authorities and he also was instrumental in discovering certain irregularities for which the concerned contractors also went against him, which was why the authorities were pressurized to transfer him.

5. It may also be mentioned that while hearing the matter on the last date it was also agreed that, if possible, this matter would be disposed of at the admission stage itself. Today the private respondent, who was ordered to succeed the applicant, also appeared and filed his written statement. In the aforesaid written statement it has been mentioned that the applicant's transfer was not punitive as also mentioned under Annexure-A/23 and that he has been transferred to another station as Dy.



Director which, though was a post in the same pay-scale, but carried more responsibilities, hence the order cannot be said to be malafide or punitive.

6. Shri Rajesh Kumar, the learned Addl. Standing Counsel, who was entrusted the case by the learned Sr. Standing Counsel in his absence, as was submitted, has pointed out the documents in which the recommendations of the concerned officials were also considered before transferring the officer in compliance of para 36 of the aforesaid guidelines. Certain other documents in the record were also pointed out for showing that the transfer was made also on good administrative grounds.

7. We have gone through the official records. Keeping in view the confidential nature of those documents, we do not intend to discuss the same by mentioning the contents observed therein, but would say that certain recommendations were taken into account and at one place the authority also had found that the transfer would also be in the interest of the applicant himself.

8. When categorically asked as to whether this transfer would carry any stigma or would in future be considered adverse to the officer, so far his service career was concerned, the learned Addl. Standing Counsel categorically stated that the transfer was not punitive, would not attach any stigma on the applicant and in future, so far the service career of the applicant was concerned, this transfer would not be considered as an



adverse material against the applicant.

9. On behalf of the applicant it was argued as to how good an officer the applicant was but this Tribunal, while considering the matter of transfer of an officer on a transferable job would not like to go into the details as to whether the performance of the officer was good or was average or was not good. No rule has been shown which is against the premature transfer of an officer and it is also found that para 36 of the guidelines was also considered while affecting transfer, by and large, and when admittedly the transfer was ordered by a competent authority, this Tribunal would not be inclined to interfere in a transfer affected in a transferable job in view of the facts discussed above, also particularly in view of the submissions made on behalf of the respondents that this transfer for no purpose would be considered adverse to the officer so far as his service career was concerned.

10. In that view of the matter, this application is dismissed. No costs.


[Mantreshwar Jha]/M[A]


[P.K.Sinha]/VC

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