

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. NO. 16/91

Date of Decision: 2.4.93

JAI PRAKASH

: Applicant.

Mr. J.K. Kaushik

: Counsel for the applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

Applicant submitted the application for mutual transfer in 1988. However, his application was not accepted and remained pending with the authorities for a pretty long time. He submitted his application (Annexure A-5) on 7.2.90 and prayed that his application should be treated as withdrawn as the orders have not been passed though long period has elapsed. Applicant was transferred vide order (Annexure A-1) dated 16.11.90 on the ground that his application for mutual transfer is pending. However, directions were given that he shall not be entitled for T.A. and D.A. Applicant challenged the order (Annexure A-1) dated 16.11.90 on various grounds including the ground that once he has withdrawn for mutual transfer he cannot be transferred from Kota Division to Bikaner Division. A letter was also addressed to D.S.O. (E), Kota (Annexure A-7) on 23.11.90 by his immediate officer that applicant does not want to proceed on transfer as he has withdrawn his application for mutual transfer on 7.2.90 as the application submitted in 1988 remained pending for a pretty long time and now he has established here. The submissions made by the Subordinate Officer of DSO (E), Kota were not considered by the authorities and the applicant had to proceed again on transfer against his wishes.

2. Once the application has been withdrawn before the passing of the order then the application does not survive. If the order is passed prior to the withdrawal of the application for mutual transfer then the order will be effective. In the instant case, applicant submitted his

application on 18.10.88 and he withdrew his application on 7.2.90 and in spite of withdrawal, the orders for mutual transfer were passed on 16.11.90 without taking note of the withdrawal of the application for mutual transfer.

3. The Kota D.R.M. has no jurisdiction to pass such orders for mutual transfer in other Division. In the result, the application is accepted. The order (Annexure A-1) dated 16.11.90 is set aside. He should be paid expenses for his transfer for Bikaner Division and he should be re-transferred again in Kota Division as the authorities had no jurisdiction to transfer out of the Division. The order should be implemented within a period of two months from today.

4. There shall be no orders as to costs.

D. L. MEHTA
(D. L. MEHTA)
Vice-Chairman