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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.767/99

DATE OF ORDER : 25-6-1999

Between :-

Muthyaloo

And

... Applicant

1. The Dy. Director General of Military Farms, Army Head Quarters, West Block-III, R.K.Puram, New Delhi - 110066.
2. Lr.Col. Officer Incharge, Bowenpally Military Dairy Farm, Secunderabad, A.P.-500011.

... Respondents

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Counsel for the Applicant : Shri K.Nageshwar Reddy

Counsel for the Respondents : Shri V.Vinod Kumar, Addl.CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI D.H.NASIR : VICE-CHAIRMAN

(Order per Hon'ble Justice Shri D.H.Nasir, Vice-Chairman).

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... 2.

(Order per Hon'ble Justice Shri D.H.Nasir, Vice-Chairman).

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The applicant is aggrieved by the action of the first Respondent in transferring him from Sec'bad office to Bangalore. He was appointed in Class-IV post and posted at Sec'bad office of the Respondents. The applicant urged the Respondent No.1 not to transfer him from his present posting. The grounds urged by the applicant in support of his plea that he should not be transferred are mainly as follows :-

- (i) that the applicant is Asthma patient;
- (ii) climate of Bangalore is not suitable to him;
- (iii) His children are studying and not yet settled.

2. According to the Central Government policy as declared in the Ministry of Home Affairs OM No.75/55-Ests dated 24.3.1955 the counsel submitted that the low paid employees should not be disturbed by transferring them out of their home station.

3. None of the aforesaid grounds urged by the applicant could be taken into consideration for interfering with the transfer order. We may however examine whether the government's policy could be applied in the instant case. According to the respondents as emerging from the reply statement filed by them, Group 'C' staff belonging to Skilled and Highly Skilled could not be posted <sup>or</sup> ~~on~~ transferred for more than 5 to 6 times in his career subject to administrative exigencies. The guidelines

...3.

in this regard are contained in the Army Headquarters letter No.A/60429/Q/MF-I dt.28.8.1998 for posting and transfer of staff of Military Farms in the Country. However, according to the respondents, the applicant has all along worked in Sec'bad for major part of his service except that he was posted once to Belgaum and he worked there for 5 years. The applicant along with other Group 'C' Staff working at various places were transferred by the said order. The respondents have produced a copy of letter dated 28.8.1998 containing the guidelines for posting of Military Form Personnel - Group 'C'. In para-4 of the said letter dealing with "Tenures", the following station tenures were laid down keeping in view the need to rotate staff amongst production Farms, non production Farms and hard stations,:-

(a) .....

(b) .....

(c) .....

(d) Group 'C' Staff, Not Borne on PE

(MT Drivers, Tractor Drivers, Plant Operators & other Skilled/Highly Skilled Staff)	I Not more than 5/6
	I postings in the
	I career subject to
	I administrative
	I contingencies.

The learned counsel for the applicant does not succeed in establishing that the above guidelines were violated on account of the applicant's transfer in question. We are therefore not impressed by this ground taken by the applicant for the purpose of interfering with the impugned transfer order.

4. The applicant contended that according to the policy

of the government the low paid employee should not be disturbed by transferring them out of their home stations and for this purpose the counsel drew our attention to page-2218 of Service Law Digest (a copy of which is produced along with OA). The relevant extract from the said page is produced below :-

"Normally the Government policy is not to disturb the low paid employees by transferring them out of their home station, except on promotion, and if such a Government employee has been transferred out of home station either on promotion or in the exigency of public service every endeavour should be made by the Government to transfer him back to the home station as and when such occasion arises. In a welfare State a balance has to be struck between the public interests and welfare of the individual concerned. The Government of India have also accepted the position that a transfer to distant place involves hardships not only of the officer concerned but also of his dependants. This may well be a serious hardship specially to the low paid employees. F.R.11 refers to liability only of the Government servants in the post in which they are paid; unless, therefore, members of any particular cadre are, by the terms of appointment made liable to serve under the Central and the State Government, transfer of the Central Government servants would not be justified. Government of India, Min. of H.A.O.M.No. 75/55 Ests.(A), dated 24.3.1955."

Low paid employees is not defined in the aforesaid para. In the case before us the applicant is getting around Rs.5,000/- per month by way of remuneration. Moreover he has been holding the position of Boiler Attendant which is a Group 'C' post. He was appointed as Calf Boy which was a Group D post on 3.3.1961. Thereafter on 1.4.1966 he was confirmed as Farm Hand at Sec'bad. On 28.5.1974 he was appointed as temporary Boiler Attendant in Group 'C' in the scale of Rs.225-300. On 25-5-1979 he was

transferred to Farm at Belgaum vide orders dated 24.5.1979 and re-transferred to Sec'bad Military Farm and was working as Boiler Attendant since then.

5. The above facts do not give us a definite reason to believe that the applicant could be categorised as low paid member of the staff and therefore, he cannot be given the benefit of the said guidelines.

6. It was also argued on behalf of the applicant that since he was on the verge of retirement, it was not in fitness of things to transfer him out of Sec'bad. This is ofcourse a good ground but having regard to the fact that the courts of law are expected to refrain, as far as possible, from interfering with the transfer orders because such interference would create hurdles in smooth administration <sup>we restrain ourselves from interfering.</sup> The principle that transfer is an incidence of service can also not be overlooked. No malafides have been attributed by the applicant nor has it been alleged that the transfer was punitive in nature which also precludes us from interfering with the transfer order. However, we are inclined to observe that if it is true that less than 3-year period is left before the applicant's superannuation, the respondents may sympathetically consider whether it would suit the administrative exigencies not to insist upon the applicant's transfer. Since no other cause appears to be weighing in favour of the applicant the OA in any case deserves to be dismissed.

7. Hence the Original Application is dismissed. No order as to costs.

*D.H.N.*  
(D.H.NASIR)  
Vice-Chairman

*Prabhu*  
*15.6.99*

Dated: 25<sup>th</sup> June, 1999.

avl/

COPY TO:-

1. HON'BLE ✓
2. HARP M(A) ✓
3. HBSJP M(J) ✓
4. D.R.(A) ✓
5. SPARE ✓

1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :  
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR :  
MEMBER (J)

ORDER: 25-6-99

ORDER / JUDGEMENT

MA./RA./CP No.

in

GA. No. 767/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

D.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

SRR

(7 copies)

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दस्तावेज / DESPATCH  
29 JUN 1999  
हैदराबाद ब्याचपीठ  
HYDERABAD BENCH