

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 13.01.2004

Original Application No. 12/2004.

Prakash Chand Meena, aged abot 41 years, son of Shri Chiranjilal Meena, resident of 41, Nidhi Vihar, EPF Colony, Jyoti Nagar, Jaipur, presently serving on the post of Upper Division Clerk in the office of the Regional Provident Fund Commissioner, Rajasthan, Jyoti Nagar, Jaipur.

... Applicant.

v e r s u s

1. Union of India through the Secretary, Ministry of Labour Shram-Shakti Bhawan, Sansad Marg, New Delhi.
2. Regional Commissioner, Employees' Provident Fund, Nidhi Bhawan, Jyoti Nagar, Jaipur (Rajasthan) 302 005.

... Respondents.

Mr. P. P. Mathur counsel for the applicant.

CORAM

Hon'ble Mr. M. L. Chauhan, Judicial Member.

: O R D E R :
(per Hon'ble Mr. M. L. Chauhan)

The applicant has filed this application against his transfer order dated 17.12.2003 (Annexure A-1) whereby he has been transferred from Jaipur to Jodhpur. The applicant has also submitted that he has also made representation Annexure A-2 and Annexure A-3 to the higher authorities which is still pending. The grievance of the applicant is that he is suffering from disablement in his stomach and he has undergone operations for the same in the year 1985. The nature of disablement is permanent and the certificate to this effect has been issued by the Doctor. The applicant has also annexed the latest certificate dated 20.12.2003 (Annexure A-11). The further case of the applicant is that the respondents should have taken note of this fact and cancel the impugned transfer order.

2. Learned counsel for the applicant submits that he will be satisfied if a direction is given at this stage to the respondents to decide the representation dated 22.12.2003 and 05.01.2004, Annexure A-2 and Annexure A-3, respectively by speaking and reasoned order taking into consideration that the

applicant falls within the category of disablement/handicapped persons and that he should be exempted from rotational transfer on that ground. Learned counsel for the applicant has further stated that benefit of this Policy has also been extended to one Smt. T. Mani, whose name was earlier included in the transfer list and which was withdrawn and now in the fresh list her name does not appear amongst transferred person.

3. Who should be transferred to where is a matter for appropriate authority to decide. Unless the order of transfer is vitiated ^{by} malafides, is made in violation of Administrative provision, the Court cannot interfere with it. While ordering the transfer there is no doubt the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer the appropriate authority must consider the same having regard to the exigencies of administration. This is the view which the Apex Court has taken in the case of Union of India vs. S. L. Abbas AIR 1993 SC 2444.

4. In view of what has been stated above and the ratio laid down by the Apex Court in the case of S. L Abbas (Supra) and since the representation with respect to the transfer of the applicant is pending before the appropriate authority, I am of the view that the ends of justice will be met if a direction is given to respondent NO.2 to decide the representation dated 22.12.2003 (Annexure A-3) by reasoned and speaking order within a period of 4 ^{in weeks} from today taking into the fact that earlier also in the year 1990, the transfer of the applicant was cancelled on medical ground. Till the representation of the applicant is not disposed of, the respondents are directed not to force the applicant to join the new place of posting.

5. The OA is accordingly disposed of at the admission stage.


(M. L. CHAUHAN)
MEMBER (J)