

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 10.8.2004

ORIGINAL APPLICATION NO. 50/2002

Khem Chand Sharma (K.C. Sharma) age about 45 years, son of Late Shri Ram Saran Das, resident of Type C 5/4, M.E.S. Colony, Near Ummed Palace Hotel, Kota (Rajasthan). JE (E/M), MES, Kota.

.....Applicant

VERSUS

1. Union of India through the Secretary, Department of Defence, South Block, New Delhi.
2. Engineering in Chief, Army Headquarter, New Delhi Kashmiri House, DHQ, PO New Delhi.
3. Chief Engineer, Southern Command, Pune.
4. Garrison Engineer, M.E.S. Kota, Near Circuit House, Kota (Rajasthan).
5. Mr. R.A. Goyal, J.E. E/M, C/o G.E.(I) MES Near Circuit House, Kota (Rajasthan).

.....Respondents.

Mr. Rajvir Sharma, Counsel for the applicant.

Mr. Vijay Singh, Proxy counsel for Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM:

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

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

(i) Therefore, it is prayed that your Lordship may kindly be pleased to call for the entire relevant records and may be examined. And your Lordships may kindly be further pleased to declare the order dated 28.4.2001 (Annexure A/1) and order dated 11.10.2001 (Annexure A/11) arbitrary, discriminatory, malafide and ineffective and accordingly such orders Annexure A/1 and Annexure A/11 dated 28.4.2001 and 11.10.2001 respectively may kindly be quashed and set aside and non applicants may kindly be directed to posted the applicant at Kota with all consequential benefits.

(ii) Respondents/non applicants may kindly be further directed to pay all salary and allowances to the applicant throughout after 31.10.2001 in all respect.

(iii) Any other order, which is just and reasonable may also be passed in favour of applicant.

(iv) Cost of the application may be awarded to the applicant.

2. The facts of the case are that the applicant while working as Jr. Engineer was transferred from Kota to Bombay vide impugned order dated 28.4.2001 (Annexure A/1). Against this order, the applicant has filed this OA in this Tribunal. When the matter was taken up for admission, this Tribunal vide order dated 5.2.2002 directed that status quo with regard to order dated 28.4.2001 be maintained. This stay order was continued till 23.4.2002.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, it has been stated that pursuant to the impugned order (Annexure A/1), the applicant has handed over the charge to Shri R.A. Goyal, Jr. Engineer, on 31.10.2001. Copy of this order was also placed on record as Annexure R/2. The respondents have further stated that the applicant was also relieved w.e.f. 31.10.2001 vide Annexure R/1. The respondents have justified the impugned order of transfer on merit also.

4. I have heard the learned counsel for the parties and have gone through the material placed on record.


5. The learned counsel for the respondents submits that since pursuant to impugned order dated 28.4.2001 (Annexure A/1), the applicant has been relieved and he has joined the new place of posting, as such the present OA has become infructuous.

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6. The learned counsel for the applicant, however, submits that pursuant to impugned transfer order and grant of order of the status quo by this Tribunal, he has occupied the Govt. Quarter for which the respondents have ^{levied} the penal rent and the said amount is being recovered from his salary. The learned counsel further submits that he will be satisfied at this stage if direction is issued to the respondents to consider the case of the applicant sympathetically for retention of the quarter for period when he was transferred from Kota to Bombay till the quarter is vacated and recover normal House rent during this period.

7. In view of the statement made by the learned counsel for the applicant, I am of the view that it will be in the interest of justice if direction is given to the respondents to consider the case of the applicant regarding recovery of normal house rent during the period of his retention of accommodation for the period under transfer sympathetically. For that purpose, the applicant is directed to make representation to Respondent No. 3 with a copy to Respondent No. 4 within a period of four weeks. In that eventuality, the respondent No. 3 is directed to dispose of the representation of the applicant by passing a reasoned and speaking order within a period of six weeks from the date of receipt of a copy of the representation taking into consideration the fact that this Tribunal has also granted the order of status quo in favour of the applicant and the applicant was also pursuing the remedy before this Tribunal and expecting some favourable order.

8. With these observations, the OA is disposed of,
~~_____~~ No costs.


(M.L. CHAUHAN)
MEMBER (J)

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