

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 04.06.2003

OA No.260/03

Damodar Prasad s/o Shri Bajrang Prasad r/o House No. 7C, Vardhaman Nagar, Ajmer Road Jaipur presently working as Head Clerk in the Regional Office, Jaipur (Civil) M/o Road Transport and Highways, DCM Ajmer Road, PO Shyam Nagar, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Road Transport and Highways, Transport Bhawan, No.1, Parliament Street, New Delhi.
2. The Regional Officer, Regional Office, Ministry of Road Transport and Highways, DCM, Ajmer Road, P.O. Shyam Nagar, Jaipur.

.. Respondents

Mr. H.P.Singh - counsel for the applicant.

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

Per Hon'ble Mr. M.L.Chaudhary

The applicant is aggrieved of the order dated 22.5.03 (Ann.A2) whereby he has been transferred from Regional Office, Jaipur to Regional Office, Thiruvananthapuram. The applicant has also challenged the order dated 27th May, 03 (Ann.A1) whereby he has been relieved of his duties in the afternoon of 27th May, 2003 consequent upon his transfer to Thiruvananthapuram. The relief sought by the applicant in this OA is that the orders dated 21.5.03 and 27.5.03 in respect of the

applicant's transfer from Jaipur to Thiruvananthapuram may kindly be quashed and set aside and the respondents may be directed to allow the applicant to work at present place of posting or any other post at Jaipur till his retirement.

2. Heard the learned counsel for the applicant.

2.1 The grievance of the applicant is that he has been transferred from Jaipur to Thiruvananthapuram in violation of the Government policy as the applicant is to retire on superannuation on 31.3.05. The said order is neither in public interest nor passed in any administrative exigency. The learned counsel for the applicant submitted that wife of the applicant is suffering from Asthmatic disease and is undertaking treatment in SMS Medical College and Hospital continuously. He has also annexed the prescription slips with this OA at Ann.A4(a) and A4(b). The applicant has also filed a copy of the judgment dated 16.12.99 passed by the Rajasthan High Court, Jodhpur Bench in the case of Dr. (Smt.) Pushpa Mehta vs. Rajasthan Civil Services Appellate Tribunal and ors. (Ann.A5) wherein the Hon'ble High Court has held that ordinarily an employee should not be disturbed from the place of his/her posting, when he/she is at the verge of retirement. An employee should be given sufficient time, which may be of two years or so, to plan peacefully his/her post retirement life. The learned counsel for the applicant further submitted that he could not make representation to the authority concerned as the applicant was relieved immediately after his transfer on 27.5.03 and as such he has no other alternative but to file the present OA in this Tribunal for obtaining

appropriate relief.

2.2 It is true that the order of transfer causes a lot of difficulties of dislocating the family set-up of the concerned employees but on ^{that} ~~the~~ order of the ~~tribunal~~ ^{Transfer} is not liable to be struck down unless such order is passed malefide or in violation of rules of service and guidelines for transfer. Without any proper justification, the Court or Tribunal should not interfere with the order of transfer. Further, it is also settled that who should be transferred where is a matter for the appropriate authority to decide. While ordering the transfer there is no doubt the authority must keep in mind the guidelines issued by the Government on the subject. Subsequently, if a person makes representation with respect to transfer, the appropriate authority must consider the same having regard to the exigency of administration.

2.3 Keeping in view the aforesaid principle, it will be appropriate if direction is given to the applicant to file representation to the respondent No.1 with copy to respondent No.2 for information within 10 days alongwith copy of this order by way of speed post in order to avoid delay. In case such representation is made by the applicant within the aforesaid period, the respondent No.1 shall consider his representation on merit keeping in view the guidelines of the Government whereby it is stipulated that the person which is retiring from service should not ordinarily be transferred from the place of his posting and shall dispose of the same within a period of four weeks from the date of receipt of such representation. Till the representation is disposed of by respondent No.1, the applicant shall not be forced to join his new place of posting i.e. Thiruvananthapuram. Accordingly, so ordered.

6

: 4 :

2.4 The OA stands disposed of accordingly at the stage of admission.



(M.L.CHAUHAN)

Member (J)