

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 630 of 2005

Jabalpur, this the 8th day of July, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Abhay Raj Singh, S/o. Kamleshwar Singh,
R/o. Udai Nagar No. 1, Vehicle Estate,
Panehra, Jabalpur.

.... Applicant

(By Advocate – Shri S. Paul)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Defence, New Delhi.
2. The Chairman/Director General,
Ordnance Factory Board, 10-A, SK Bose Marg,
Kolkata.
3. The General Manager, Ordnance Factory,
Khamariya.

.... Respondent

(By Advocate – Shri S.A. Dharmadhikari)

O R D E R

With the consent of both the parties, this case was heard for final disposal.

2. By filing this Original Application the applicant has claimed the following main reliefs :

“(ii) set aside the order dated 17.6.2005 (Annexure A-1) and order dated 10.5.2005 (Annexure A-2) with all consequential benefits as if the impugned transfer order has never been issued,

(iii) direct the respondents to keep applicant posted at the present place of posting i.e. Ordnance Factory Khamaria, Jabalpur.”

3. The brief facts of the case are that the applicant was initially appointed as Darban on 1.1.1983 in the Ordnance Factory, Khamaria,



Jabalpur. Vide order dated 10.5.2005 (Annexure A-2) the applicant has been transferred to Ordnance Factory, Tiruchanappally. This order is a non-speaking order. Darban is a Group-D post and Group-D employee is normally not transferred from one factory to another and the seniority of the Group-D employee is maintained at the factory level. If they are transferred to other factories then their seniority will be adversely affected and the chances of their promotion will also be prejudiced. By the present transfer order the family of the applicant shall face acute problem. The applicant's 80 years old father is a heart patient who had undergone for by-pass surgery 4 years back and he is still taking treatment from the Doctors at Jabalpur. The applicant's one son and two daughters are studying at Jabalpur. With regard to his transfer the applicant preferred a representation and when it was not considered and decided he has filed OA No. 478/2005. The Tribunal vide order dated 13.5.2005 directed the respondents to decide the representation of the applicant. The respondent No. 2 has rejected the representation of the applicant on 17.6.2005 (Annexure A-1) without any authority and jurisdiction to decide the same. The respondent No. 1 should have decided the representation of the applicant. While deciding the representation of the applicant the respondent No. 2 has not mentioned any administrative exigency or public interest under which he was compelled to pass such order. This order is apparently illegal and hence, this Original Application is filed.

4. Heard the learned counsel for the parties and carefully perused the pleadings and records.

5. The learned counsel for the applicant argued that similar case has been decided by this Tribunal in OAs Nos. 589/05, 590/05 & 591/05 on 6th July, 2005. He further submitted that similar treatment be also given to the applicant in the present case. The learned counsel for the respondents agreed to the same.



6. Considering all the facts and circumstances of the case, I am of the considered opinion that in OAs Nos. 589/2005, 590/2005 & 591/2005 the Tribunal has passed the following orders on 6th July, 2005:

“8. Considering all the facts and circumstances of the case, I am of the considered opinion that the impugned orders are liable to be quashed and set aside. Accordingly, the impugned orders dated 17.6.2005 (Annexure A-1 in all the OAs) and 10.5.2005 (Annexure A-2 in all the OAs) are quashed and set aside. Further the respondent No. 1 i.e. the Secretary, Ministry of Defence, New Delhi is directed to reconsider the representations of the applicants, within a period of two months from the date of receipt of a copy of this order, by passing a speaking, detailed and reasoned order and also keeping in view the observations made above.”

I find that the present case is squarely covered in all fours with the aforesaid order passed by the Tribunal in the aforesaid cases. Thus, the findings given by the Tribunal in the aforesaid cases shall mutatis mutandis applicable to the present case as well.

7. Accordingly, the impugned orders dated 17.6.2005 (Annexure A-1) and 10.5.2005 (Annexure A-2) are quashed and set aside. Further the respondent No. 1 i.e. the Secretary, Ministry of Defence, New Delhi is directed to reconsider the representation of the applicant, within a period of two months from the date of receipt of a copy of this order, by passing a speaking, detailed and reasoned order and also keeping in view the observations made above.

8. In view of the above, the Original Application is disposed of. No costs.



(Madan Mohan)
Judicial Member