

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 658 of 2005

Jabalpur, this the 24th day of January, 2006

Hon'ble Shri M.K. Gupta, Judicial Member

A.K. Soni, S/o. Late M.G. Soni,
Aged about 50 years,
R/o. C/o. Sanjay Sonakiya,
In front of Lalu Tent House,
Rajendra Ward, P.O. Sohagpur,
Distt. Hoshangabad – 461 771.

.... Applicant

(By Advocate – Shri V. Tripathi)

V e r s u s

1. Union of India, through its Secretary, Ministry of Water Resources, New Delhi.
2. The Chairman, Central Water Commission, RK Puram, Sewa Bhawan, New Delhi.
3. The Director, Central Water Commission, RK Puram, Sewa Bhawan, New Delhi.
4. The Chief Engineer, Central Water Commission, Narmada Tapti Bhawan, Sector-10-A, Gandhi Nagar, Gujrat.
5. The Superintending Engineer, Central Water Commission, Narmada Tapti Bhawan, Sector 10-A, Gandhi Nagar, Gujrat. Respondents

(By Advocate – Shri A.P. Khare)

O R D E R (Oral)

This is a second round of litigation. Earlier the applicant had approached this Tribunal vide OA No. 474/2005 challenging order dated 29th April, 2005 transferring him from Rajpeepla Tapti Division to Dedh Talai, Bhusawal. The said OA was disposed of vide order dated 13th May, 2005, as the applicant's representation 11.4.2005, followed by reminder dated 20th April, 2005 had been pending with the respondents. Till the said representations were to be decided, the respondents were restrained from disturbing the applicant from his present place of posting.

2. It is the contention of the applicant that pursuant to the said directions, respondents issued communication dated 7th July, 2005 and required him to explain why action be not initiated for misleading this Tribunal for forcefully getting letter written by Shri I.S. Rajput, who was unwilling for a mutual transfer.
3. By the present OA applicant has challenged the transfer order dated 29th April, 2005 (Annexure A-1) office order dated 12th July, 2005 (Annexure A-2), whereby it was ordered that he would stand relieved of his duty on 15.7.2005 & directed to report for duties at his new place of posting i.e. G&D site, Gandhav, under BLSD, CWC, Palampur, and communication dated 7.7.2005 (Annexure A-3).
4. It is the contention of the applicant that the respondents have rejected the applicant's representation with malafide intention and without considering his request transfer application pending before the apex authority i.e. Secretary, which remains undecided by respondent No. 1.



5. The respondents contested the OA stating that Shri I.S. Rajput was forced by the applicant to write an application for transfer to Dedtalai for which he was not willing and the applicant forcefully collected the said application and sent to the office vide representation dated 11th April, 2005. In any case, the said application had not been received prior to the date when the impugned transfer order dated 29th April, 2005 was passed. Since the applicant was found indulging in mud-sludging and character assignation of staff, an order dated 7.7.2005 was issued requiring him to explain the circumstances in which he obtained the application from the said Shri I.S. Rajput. Moreover, it is contended that the applicant has already been relieved on 15.7.2005 and during the pendency of the present OA, complied the transfer order by joining the transferred station on 24th September, 2005,

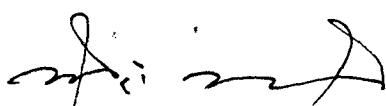
6. I have heard learned counsel for the parties and perused the pleadings carefully.

7. Merely because the applicant had joined on 24th September, 2005 could not be a ground to non-suiting the applicant. I find justification and force in the contention raised by Shri Tripathi learned counsel appearing for the applicant, that the respondents vide communication dated 7.7.2005 had no where considered and observed about the fact of his representations dated 11.4.2005 & 20.4.2005. On the other hand on perusal of the said communication dated 7.7.2005, I find that the applicant was required to explain the reasons for obtaining the letter from Shri I.S. Rajput forcefully and for misleading this Tribunal. It is not in dispute that the applicant's request for transfer on personal grounds remained

unconsidered by respondent No. 1, namely Secretary, Ministry of Water Resources.

7.1. It is well settled law that the Courts/Tribunals cannot interfere with the transfer/posting orders unless the same is either suffer from malafide or is issued in breach of statutory rules. None of these pleas have been raised in the present OA. Who should be posted where, is the prerogative of the executive Government. The only ground which has been pressed by the learned counsel for the applicant is that his various representations made to the concerned authorities for request transfer remained unconsidered. Even if the joint request made by Shri I.S. Rajput, is to be ignored, it is contended that the applicant has some personal domestic problem, which had been pointed out to the concerned authorities, but remained unconsidered. I therefore, find no ground to interfere with the posting/transfer order.

8. Such being the case, applicant should make a comprehensive detailed representation addressed to respondent No. 2 for his inter divisional request transfer. If such request is made within the fortnight from today, the same shall be considered objectively and dispassionately by respondent No. 2 by passing a detailed and speaking order within a period of two months from the date of receipt of such a request, if any made. Accordingly, the OA stands disposed of. No costs.


 (M.K. Gupta)
 Judicial Member

“SA”

प्रठांकन सं ओ/न्या..... जबलपुर, दि.....
 पत्रिलिपि अच्छे गितः—
 (1) सदिक, उच्च व्यापार वार एसोसिएशन, जबलपुर
 (2) आकेदक शाही नी/दु.....
 (3) प्रत्यर्थी श्री/स्त्रीमामी/इ.....
 (4) क्षेत्रपाल, को.प्रां., न.न.न.उ. ज्यायदीत
 सूचना एवं अवश्यक कार्यक्रम

V. Tr. P. A. N. D. B. P
 A. P. K. A. N. D. B. D

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 अ. रजिस्ट्रार

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