

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

**Original Application No. 1124 of 2005**

**Jabalpur, this the 13<sup>th</sup> day of December, 2005**

Hon'ble Shri M.P. Singh, Vice Chairman

V.K. Mishra, S/o. late R.D. Mishra,  
Aged about 55 years, R/o. COD Colony,  
Suhagi, Jabalpur.

.... Applicant

(By Advocate – Shri A.K. Pare)

**V e r s u s**

1. Union of India, through : the Secretary,  
Govt. of India, Ministry of Defence,  
Deptt. of Defence Production, New Delhi.
2. Director General, Ordnance Factories,  
Ordnance Factory Board, 10, Shaheed Khudi  
Ram Bose, Kolkata.
3. Senior General Manager, Vehicle Factory,  
Jabalpur (MP). .... Respondents

**O R D E R (Oral)**

Heard the learned counsel for   the applicant.

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

“ii direct the respondents to consider the applicant's representation dated 18.8.2005 and accordingly convert the transfer on compassionate ground to the transfer in public interest of the applicant and consequential benefits thereof.

iii. direct the respondent to sanction 30 days earned leave for curtailed vacation from 1.5.2004 to 30.5.2004 as he had been transferred much earlier (i.e. 9.3.04) than the date which he informed (i.e. 12.6.04).”

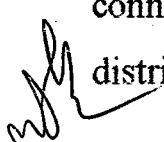
3. The brief facts of the case are that the applicant is working as a Teacher in Vehicle Factory Primary School, Jabalpur. He had made a

request dated 3<sup>rd</sup> March, 2003 to the respondents to transfer him to the Primary School of Ordnance Equipment Factory, Kanpur. While making this request the applicant has submitted that his parental house is in Lakhimpur Khiri near Kanpur (UP) and his mother who is aged about 73 years old is residing there and is suffering from Cardiac <sup>problem</sup> with arthritis and blood sugar problem. She needs constant care and there is nobody to look after his aged mother as he is the only son. The respondents have sympathetically considered his request and transferred the applicant vide order dated 5<sup>th</sup> March, 2004 from Primary School of Vehicle Factory, Jabalpur to the Primary School of Ordnance Equipment Factory, Kanpur. Further the applicant made a request that he should not be transferred at that point of time <sup>when</sup> as the Lok Sabha elections were announced and he should be transferred only after the elections are over i.e. sometime in June, 2004. He also made a representation to the General Manager, Vehicle Factory, Jabalpur on 6<sup>th</sup> March, 2004, wherein he has stated that he is not in a position to move from Jabalpur to Kanpur as he does not have any money and his economic condition does not permit him to bear his expenditure for this move from Jabalpur to Kanpur. He has also written a letter to the Election Officer, District Jabalpur stating that he is likely to be placed on election duty and incase he is transferred during the Lok Sabha elections then he will be denied of his fundamental right to vote. The Election Officer, District Jabalpur has written a letter to the General Manager, Vehicle Factory, Jabalpur, not to effect the transfer of the applicant from Jabalpur to Kanpur till the Lok Sabha election is over. Thereafter, ~~after~~ <sup>the</sup> the Lok Sabha elections were over <sup>&</sup> the applicant vide his letter dated 18<sup>th</sup> August, 2005 has again written to the Senior General Manager, Vehicle Factory, Jabalpur, stating that without his information the respondents have issued the transfer order dated 5<sup>th</sup> March, 2004. According to him he has sought his transfer from 12<sup>th</sup> June, 2004 but he has been transferred vide order dated 5<sup>th</sup> March, 2004. He has also stated in his representation to the Senior General Manager, Vehicle Factory, Jabalpur that his transfer be ordered in public interest and not <sup>at</sup> ~~in~~ his own request.

He has also put a condition for his transfer that he should be allowed the seniority which he was holding in the Central zone and he should also be promoted as per the DPC and he should also be given the benefit of one month summer vacation. Further he should be given the benefit of 10 days earned leave as joining time at Kanpur. Apart from it all other benefits as is given to a Government servant who is transferred in public interest should also be granted to him. The respondents vide their letter dated 21<sup>st</sup> October, 2005 have rejected the request of the applicant and the applicant has been informed that his transfer being on compassionate grounds in his own interest, he is not entitled to the benefits of regular transfer in public interest as claimed by him. It is against this order the applicant has approached the Tribunal by filing the present OA seeking the aforementioned reliefs.


4. I have given careful consideration to the rival contentions made on behalf of the learned counsel for the applicant and also perused the pleadings and records carefully.

5. The undisputed facts of the case are that the applicant has made a request for his transfer from Primary School of Vehicle Factory, Jabalpur to the Primary School of Ordnance Equipment Factory, Kanpur on the ground that his parental house is in Kanpur and his mother is living there. He has also submitted in his representation that there is nobody to look after his aged mother as he is the only son. The respondents have sympathetically accepted the request of the applicant for his transfer in his own interest and accordingly the applicant was transferred vide order dated 5.3.2004. At that point of time the applicant has made a request that he should be transferred in June, 2004 i.e. when the Lok Sabha elections are over, otherwise he would be denied the fundamental right to vote, if he is transferred during the Lok Sabha elections. In this connection he has also written a letter directly to the Election Officer, district Jabalpur and the Election Officer in his turn written a letter to the



General Manager, Vehicle Factory, Jabalpur not to effect the transfer of the applicant during the Lok Sabha elections. The applicant has also made a request that he is not in a position to effect the transfer at that stage as he has no money to move from Jabalpur to Kanpur. He also requested that he is not in a position to bear the expenditure of the transfer and his wife is also ill. The applicant also stated that he is prepared to move on transfer on his own expenditure and he should be relieved on his new place of posting on 12<sup>th</sup> June, 2005. After 12<sup>th</sup> June, 2005 he has moved an application stating that his transfer be made in public interest with conditions that he should be allowed the benefit of 30 days earned leave for curtailed vacation from 1<sup>st</sup> May, 2004 to 30<sup>th</sup> May, 2004. It only shows that the ground given by the applicant that his mother is seriously ill as she is suffering from cardiac problem with arthritis and blood sugar problem and there is nobody to look after her at Kanpur, is not a genuine ground. If the said ground taken by the applicant is genuine then he would not have waited/delayed to affect his transfer to Kanpur which was made by the respondents after accepting his own request. The rules are very clear that on own request transfer, no TA/DA is made. The respondents have therefore acted as per the rules and instructions on the subject. There is no illegality or irregularity committed by them. It appears that the applicant is trying to get rid of his transfer on flimsy grounds. It is a settled legal proposition that the Courts/Tribunals cannot interfere in the matter of transfer and to post an employee at a particular place is within the domain of the executive and the Tribunal or Courts have no role to play. There are number of judgments in this regard of the Hon'ble Supreme court such as in the case of Gujarat State Electricity Board Vs. A.R. Sungomal Poshani, AIR 1989 SC 1433, Union of India Vs. H.N. Kirtania, JT 1989 (3) SC 131, Union of India Vs. S.L. Abbas, 1993 (2) SLR 585 (SC), N.K. Singh Vs. Union of India & Ors., 1994 (28) ATC 246 (SC), State of Madhya Pradesh & Ors. Vs. Sri S.S. Kourav & Ors., JT 1995 (2) SC 498.

6. In view of the aforesaid position the Original Application is liable to be rejected at the admission stage itself. Accordingly, the same is rejected at the admission stage itself.

  
(M.P. Singh)  
Vice Chairman

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पृठांकन सं ओ/न्या.....जबलपुर, दि.....

पलिलिपि अने लिपि:-

- (1) अश्विन, उज्जैन, राजस्थान, जयपुर  
 (2) आनंदपुर, श्रीमती, ..... के काउंसिल  
 (3) प्रत्यक्षी श्री, श्रीमती, पुरु, ..... के काउंसिल  
 (4) वांगपाहन, के प्रभा, अजमेर, व्यापक  
 सूचना एवं आवश्यक कार्यवाही हेतु

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

~~Good~~  
22.10.19