

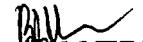
20.01.2009

OA No. 393/2008

Mr. C.B. Sharma, Counsel for applicant.
Ms. Kavita Bhati, Proxy counsel for
Mr. Kunal Rawat, Sr. Standing Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L.KHATRI)
MEMBER (A)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 20th day of January, 2009

ORIGINAL APPLICATION NO. 393/2008

CORAM:

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Tapan Yadav son of Shri Dhoom Singh aged about 45 years, resident of P-III/3, Rashtriya Military School, Dholpur. Presently working as Master Gazetted (Political Science) Rashtriya Military School, Dholpur.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Defence, Ministry of Defence, New Delhi.
2. Director General of Military Training (M.T.-15) General Staff Branch, Integrated Head Quarter of Ministry of Defence (Army), New Delhi.
3. Principal, Rashtriya Military School, Dholpur (Rajasthan).

.....RESPONDENTS

(By Advocate: Ms. Kavita Bhati proxy to Mr. Kunal Rawat)

ORDER (ORAL)

PER HON'BLE MR. B.L. KHATRI

This OA has been filed by the applicant against the order dated 19.09.2008 (Annexure A/1) by which representation of the applicant against the transfer order dated 01.08.2008 (Annexure A/2), issued by respondent no. 2, from Rashtriya Military School, Dholpur to Rashtriya Military School, Chail (Himachal Pradesh) has been rejected.

2. Learned counsel for the applicant had relied upon the transfer policy of the department which reads as under:-

"Timing of Transfer

Yours

58. Care will be taken to ensure that transfer during the middle of the academic year are avoided as far as possible. Exceptions will only be to meet an emergent requirement in the exigencies of service. It will be desirable to give two months time in the posting order for completion of the move to enable an individual to sort out his personal administration. However, moves on administrative grounds may be ordered giving lesser time. General schedule for the bulk postings will be as under:-

(a) Tenure turnover postings	January/February
(b) Compassionate posting	February/March and August/September
(c) Command Manning Level Postings	March/April/May
(d) Local Turn over Satellite Postings"	May/June

3. The applicant has cited many examples according to which the case of the applicant has been discriminated and he has been transferred due to malafide. The applicant has also raised the ground of illness of his parents and submitted that the present transfer order is not at all justified and the same is liable to be quashed and set aside.

4. Respondents have filed reply thereby justifying their action. It has been stated in the reply that the applicant has joined at the new place of posting at Chail in compliance of the order dated 01.08.2008. The transfer of the applicant has been made as per the policy/guidelines and relevant provisions of the law and the rules. The transfer of the applicant is a routine transfers of teachers carried out in organizational interest as per policy of 'holistic review of transfer of teachers.'

5. Respondents have also stated in the reply that there is no malafide intention attached in the transfer of the applicant. The applicant who has already joined Rashtriya Military School, Chail can get his children automatically admitted at Rashtriya Military School, Chail. The transfer of the applicant is not in isolation. Other teachers have also been transferred from one Rashtriya Military School to other Rashtriya Military School. As regards the treatment of the parent, it is submitted that treatment of ailing parent are being carried out at Army Hospital,

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New Delhi and the same could be continued even while in Rashtriya Military School, Chail.

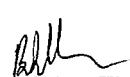
6. I have heard the learned counsel for both the parties and have perused the material placed on record. In case of Abani Kanta Ray vs. State of Orissa, 1995 (Supp.) 4 SCC 169, it was held in Para No. 10 that –

"It is settled law that transfer which is an incident of service is not to be interfered with by the courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer."

7. In view of the facts & circumstances of the case, it is not considered necessary to interfere with the transfer order of the applicant dated 01.08.2008 (Annexure A/8).

8. At the end, learned counsel for the applicant has urged that respondents may be directed to consider the representation of the applicant to be filed in due course of time. Under such circumstances, the applicant is directed to make a fresh representation with adequate reasons for transfer to a particular station. In that eventuality, the respondents are directed to decide the representation of the applicant within a period of two months from the date of receipt of such a representation. If the applicant is aggrieved by the order of the respondents, he may agitate the matter before this Tribunal again.

9. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)

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