

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 11<sup>th</sup> day of August, 2010

Original Application No. 376/2010

CORAM:

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

Parvinder Singh Gill  
s/o Shri K.S. Gill,  
r/o H.No.1, Type IV,  
G.S.I. Officers Colony,  
Indira Nagar, Tonk Road,  
Jaipur, presently posted as  
Geologist Senior, Geotechnical Lab,  
Engineering Geology Division,  
Western Region, Geological Survey of India,  
Khanij Bhawan,  
Jhalana Institutional Area, Jaipur

... Applicant

(By Advocate: Shri P.P. Mathur)

Versus

1. The Union of India  
through the Secretary  
Ministry of Mines,  
Central Secretariat,  
New Delhi.
2. The Director General,  
Geological Survey of India,  
Central Headquarter,  
27, Jawahar Lal Nehru Road,  
Kolkata.

... Respondents

(By Advocate: ....)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- i) by an appropriate order or directions the impugned transfer order dated 7.6.2010 (Annex.A/1) qua the applicant and order dated 12.7.2010 (Annex-A/2) may be quashed and set aside and the respondents be directed to allow the applicant at his present posting place.
- ii) by an appropriate order or directions the transfer policy dated 7.1.2010 may be quashed and set aside or in the alternative it may be held that the transfer policy dated 7.1.2010 is prospective in operation in so far as counting the period of residency at a particular station is concerned.
- iii) In alternate the respondents may be directed to modify the impugned transfer order dated 7.6.2010 and post the applicant at Chandigarh or at Faridabad.
- iv) Further in alternate the respondents may be directed to place/post the applicant at Chandigarh or at Faridabad whenever he is subjected to next transfer or promotion or whenever the next transfer orders are issued in accordance with the transfer policy dated 7.1.2010.
- v) Any other appropriate order or directions which is deemed just and proper by this Hon'ble Tribunal may also be passed in favour of the applicant.
- vi) The Original Application may kindly be allowed through out with costs."

2. The grievance of the applicant in this case is regarding his transfer vide order dated 7.6.2010 (Ann.A/1) whereby the applicant has been transferred from Western Region, Jaipur to Southern Region, Hyderabad. It has been pleaded that such a transfer is against the policy decision Ann.A/7 which has come into force w.e.f. 1<sup>st</sup> January, 2010, inasmuch as, one Shri Vijay Kumar Chittora

whose tenure at Jaipur is 19.68 years has been retained at Jaipur whereas the applicant whose tenure is 18 years has been transferred in violation of Para 14.1 of the transfer policy, which stipulates that officer with less tenure at a station shall not be transferred out except on request, unless all officers with a longer tenure than him in the same grade and stream have been included in the transfer order. Another ground for violation of transfer policy is that the transfer has to be completed by 15<sup>th</sup> April of each year in terms of para-9 of the transfer policy and in fact the transfers outside the period of general transfer should only be done in special circumstances mentioned in para 9.4. It is also pleaded that the transfer policy dated 7.1.2010 is prospective in operation, in so far as, counting the period of residency at one station is concerned, and the same is applicable to the fresh entrants and not to the employees who are already in service prior to coming into force of the transfer policy w.e.f. 1.1.2010.

3. I have heard the learned counsel for the applicant at admission stage and gone through the material placed on record.
4. From the material placed on record, it is evident that the applicant joined the respondent department on 22.2.1986 in Marine Wing at Kolkata. For the first time he was transferred to North-Eastern Region, Shilong on 26.12.1986. However, he was given his choice place of posting at Jaipur on account of his posting in the North Eastern Region which posting is normally given to a person who has served in the North Eastern Region for 3 years. Accordingly, the applicant was given posting to a region of his choice on account of

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availability of post at Jaipur and as per the preference which the applicant might have exercised for his posting at Jaipur. Admittedly, the applicant has served at Jaipur for a period of 18 years. From the facts as stated above, it is evident that during the entire period of service of about 24 years, the applicant has been transferred vide impugned order for the second time (as the transfer to Jaipur from North Eastern Region on his own request cannot be treated as transfer). Thus, according to me, the applicant has not made out any case for grant of relief. The vague averment made by the applicant in the OA that one Shri V.K.Chittora who had a longer stay than the applicant has not been transferred, cannot be taken a valid ground to interfere in transfer matter, especially when there is nothing on record to suggest that the applicant and Shri V.K.Chittora belong to same stream.

5. That apart, the applicant has not made any such grievance before the appropriate authority in his representation dated 25.5.2010 and subsequent representation dated 15.6.2010 which representation has also been rejected by the respondents vide impugned order dated 12.7.2010 (Ann.A/2). It may be stated here that the grievance made by the applicant vide representation dated 25.5.2010 (Ann.A/9) was to the effect that he may be exempted from transfer at this juncture as he is likely to get next promotion in near future and in his subsequent representation dated 15.6.2010, the applicant has made grievance regarding his posting at his home town Chandigarh or in the alternative at Faridabad so that he can look after his aged parents. As already stated above,

this request of the applicant was turned down vide Ann.A/2. Thus, in the light of his subsequent representation dated 15.6.2010 whereby the applicant has not made out any grievance regarding his transfer to Hyderabad but has confined the same regarding his posting at Chandigarh or Faridabad, the grievance of the applicant for cancellation of his transfer made vide impugned order (Ann.A/1) is required to be rejected on this ground also.

6. With regard to the further submission made by the applicant that transfer should have been completed by 15<sup>th</sup> April, 2010 based on para 9.3 of the transfer policy, suffice it to say that such provision of the policy decision cannot be held to be mandatory and the order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at the best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequences of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest. This is what the Supreme Court has held in the case of State of U.P. and Ors. Vs. Gobardhan Lal, (2004) 11 SCC 402. That apart, the applicant has not made any grievance about violation of the transfer policy before the appropriate authority in his representation. Thus, he is precluded from making any grievance on this point in the light of the law laid down by the Apex Court in the case of Goverdhan Lal

(supra). At this stage, it will be useful to quote para-7 of the judgment in the case of Gobardhan Lal (supra), which thus reads:-

"7. It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequences of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision."

Thus in the light of the law laid down by the Apex Court in the case of Gobardhan Lal (supra), the applicant has not made out any case against his transfer made vide impugned order Ann.A/1.

7. So far as grievance of the applicant regarding rejection of his representation vide order dated 12.7.2010 (Ann.A/2) is concerned, the request of the applicant for his posting at Chandigarh/Faridabad has been rejected. Admittedly, Chandigarh

is home town of the applicant. From the material placed on record, it is also evident that one Shri Ram Singh Rajawat who was transferred from Jaipur to Kolkata has been adjusted at Faridabad on own his request. Thus, there is no post at Faridabad where the applicant could have been adjusted and rejection of representation of the applicant vide Ann.A/2 cannot be said to be illegal. In any case, a Government servant has no vested right to remain posted at a place of his choice nor he can insist that he must be posted at a particular place. Thus request of the applicant for granting alternative relief of modifying the impugned transfer order and posting the applicant at Chandigarh or Faridabad cannot be considered. Similarly, prayer of the applicant that if the applicant is promoted and transferred in future, he may be posted at Chandigarh or Faridabad is also without any basis and no such direction can be given in the light of the law laid down by the Apex Court, as reproduced above. Further, the contention raised by the applicant that transfer policy dated 7.1.2010 is prospective and is not applicable to the applicant so far as it relates to counting the period of residency is also without any basis and deserved our right rejection. Even if the transfer policy is not applicable in the case of the applicant, it is inherent not only in the terms of appointment but also implicit as an essential condition of service that a Government servant once appointed has no legal right to remain posted at a particular post or a position as long as he desires. Even if the transfer policy is not applicable in the case of the applicant as alleged, it was permissible for the respondents to transfer the applicant

especially when such transfer has been effected after a period of 18 years.

8. Thus, for the foregoing reasons, the OA is bereft of merit, which is accordingly dismissed at admission stage.

  
(M.L.CHAUHAN)  
Judl. Member

R/