

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 04.07.2012

OA No. 438/2012

Mr. Ved Prakash, counsel for applicant.

Heard learned counsel for the applicant.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of July, 2012

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Original Application No. 438/2012

Rohit Jivabhai Valabhai
s/o Shri Valabhai Dhurabhai
permanent r/o S-47, Indira Nagar,
Vasahat Part-5, Hudko,
Village Kathavada Tai Daskooi,
District Ahmedabad, presently
Working as Driver (Civil GT) in 706,
Transport Company ASC (Civil GT),
Jaipur and residing at 10/27,
Prempura, Queens Road,
Near Jharkhand Mahadev Mandir,
Vaishali Nagar, Jaipur

.. Applicant

(By Advocate: Shri Ved Prakash)

Versus

1. Union of India
through Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Commanding Officer,
706, Transport Company,
ASC (Civil GT),
PIN 905706, Jaipur
3. OIC ASC Records (South),
PIN 900493,
Bangalore.

4. GOC HQ 61 Sub Area,
Military Station,
Jaipur

.. Respondents

(By Advocate: ...)

Original Application No. 437/2012

Rameshwar Prasad Bunkar
s/o Shri Sedu Ram Bunkar,
permanent resident of
Village and Post Surana
Via Manoharpura, Distt. Jaipur,
Presently working as Driver (Civil GT)
in 706 Transport Company, ASC (Civil GT),
Jaipur and residing at 5/100, Jawahar Nagar
Kachhi Basti, Tilla No.5, Jaipur

.. Applicant

(By Advocate: Shri Ved Prakash)

Versus

1. Union of India
through Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Commanding Officer,
706, Transport Company,
ASC (Civil GT),
PIN 905706, Jaipur
3. OIC ASC Records (South),
PIN 900493,
Bangalore.
4. GOC HQ 61 Sub Area,
Military Station,
Jaipur

.. Respondents

(By Advocate:)

Original Application No. 436/2012

Dharmendra Kumar
 s/o Shri Maha Ram
 permanent resident of
 Village Nangla Vinayak, Post
 Nawabganj, Distt. Farrukabad (UP)
 Presently working as Driver (Civil GT)
 In 706, Transport Company (ASC Civil GT),
 Jaipur and residing at 179, Bhartendu Nagar,
 Khatipura, Jhotwara, Jaipur

.. Applicant

(By Advocate: Shri Ved Prakash)

Versus

1. Union of India
 through Secretary,
 Ministry of Defence,
 South Block,
 New Delhi.
2. Commanding Officer,
 706, Transport Company,
 ASC (Civil GT),
 PIN 905706, Jaipur
3. OIC ASC Records (South),
 PIN 900493,
 Bangalore.
4. GOC HQ 61 Sub Area,
 Military Station,
 Jaipur

.. Respondents

(By Advocate:)

ORDER (ORAL)

The aforesaid Original Applications, involving similar question of law and facts, are being decided by this common judgment.

2. Facts of OA No.438/2012, Rohit Jivabhai Valabhai vs. UOI, are taken as leading case.

3. It is second round of litigation. Earlier the applicant has filed OA No.366/2012 and the same was disposed of vide order dated 24.5.2012. The aforesaid OA was filed by the applicant challenging the verbal transfer order as informed by respondent No.2, directing to move to 652, ASC Company, IMTRAT on 1st June, 2012 and that he will issue movement order in the evening of 31.5.2012.

4. The main issue at that time was that no written transfer order has been issued by the respondents, thus, the earlier OA was filed challenging the verbal transfer order.

5. This Tribunal while disposing of the aforesaid OA, given liberty to the applicant either to file representation or submit copy of the OA before the respondents within a period of three days from the date of the order and the respondents were directed to consider and decide the same and shall pass a reasoned and speaking order strictly in accordance with provisions of law expeditiously, but in ^{any} ~~any~~



case, not beyond the period of one months from the date of receipt of representation/copy of the OA alongwith the order passed by this Tribunal with the stipulation that till disposal of the representation, the applicant may not be transferred from the place of his present posting i.e. 706, Transport Company (ASC Civil GT), Jaipur. Liberty was also given to the applicant to file substantive OA, if any adverse order is passed against him.

6. The present OA is filed by the applicant challenging movement order Ann.A/1 issued on 29.6.2012. The order impugned is again assailed by the applicant on the ground that copy of the transfer order has not been supplied to the applicant. Therefore, the movement order which has been issued pursuant to the transfer order requires interference by this Tribunal.

7. We have carefully gone through the speaking order passed on the representation filed by the applicant pursuant to the direction issued by this Tribunal vide order dated 24th May, 2012 in OA No.366/2012. In para 2 and 3 of the speaking order, the respondents have mentioned as under:-

"2. Whereas, the applicant was initially appointed as Cleaner on 15 Oct 1988 and subsequently promoted as CMD (OG) and CMD Gde-II. All personnel of ASC Civ GT units are governed by Army Act for discipline and their service liability is on "All India basis". Also IHQ of MoD (Army) vide Corps Order No. 06/94 and letter No.79234/Posting/Q/ST-12(Civ) dt 21 Sep 2005 had framed policy for posting of ASC Civ (GT) personnel based on feed back received from environment and various representations from Civ GT units. As per Army Act,



refusal to comply with the order of a higher authority which includes refusal to move on posting orders, will attract strict action against the defaulter as they all have "All India service liability.

3. Whereas, No.13892990 CMD Gde-II Rohit Jivabhai Valabhai was posted to 706 Tpt Coy ASC (Civ GT) since 01 Nov 2002 and had completed more than 09 years service in the said unit. Accordingly, he was ordered to be posted out to 652 Coy ASC (Civ GT) IMTRAT vide ASC Records (South) Posting Order No. 3154/MF/CA-7 (Civ) dt 27 Dec 2011 in terms of Corps order No. 06/94 and IHQ of MOD (Army) letter No. 79234/Posting/Q/ST-12 (Civ) dated 21 Sep 2005 to relieve No 1389267 CMD Gde-II Gopal Singh who has already completed prescribed tenure with 652 Coy ASC (Civ GT) IMTRAT."

8. Upon careful perusal of Para 2 and 3 of the speaking order, it reveals that the applicant has completed more than 9 years of service in the unit and accordingly, he was ordered to be posted to 652 Coy ASC (Civ GT) IMTRAT vide ASC Records (South) Posting order No.3154/MF/CA-7(Civ) dated 27th Devember, 2011 in terms of Corps Order No. 06/94 and IHQ of MoD (Army) letter dated 21st September, 2005.

9. The challenge to the transfer order appears to be on technical grounds that his wife is staying at Jaipur and his children are grown up and married and staying separate in other cities. Further, that wife of the applicant needs constant caring and treatment from the Civil Hospital.

10. Be that as it may, the fact that the movement order has been issued on 29.6.2012 (Ann.A/1) and the same has been handed over to the applicant on 2.7.2012, reveals that the applicant has been



relieved from his present posting and in such circumstances, we see no reason to interfere with the transfer order as well as the movement order issued by the respondents.

11. In view of the observations made hereinabove, all the aforesaid OAs deserve to be dismissed in limine without issuing notices to the respondents and the same are accordingly dismissed at admission stage.

Anil Kumar
(ANIL KUMAR)
Admv. Member

J. C. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/