

ORDERS OF THE BENCH

Per C-O

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 288/2013

ORDER RESERVED ON 21.01.2014

ORDER PRONOUNCED ON: 24.01.2014

CORAM

HON'BLE MR. G. GEORGE PARACKEN, JUDICIAL MEMBER

V.S. Agarwal S/o late Shri Kanahaiya Lal Agarwal, aged about 49 years, R/o 33/2, Rashtriya Military School Campus, Near Pattan Bazar, Circular Road, Ajmer - 305001, At present working as Assistant Master (Maths) in Rashtriya Military School, Ajmer.

...Applicant

Mr. Surendra Singh, proxy counsel for
Mr. Man Singh Gupta, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. Director General of Military Training MT-15, General Staff Branch, Integrated H.Q. of MOD (Army), New Delhi.

...Respondents

Mr. Ashish Kumar, counsel for respondents.

ORDER

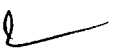
In this Original Application, the applicant has challenged the impugned order dated 08.03.2013 (Annexure A/1) by which he was transferred from Rashtriya Military School (RMS, for short), Ajmer to RMS, Chail.

2. Brief facts of the case, as stated by the applicant, are that the applicant was appointed as Assistant Master, Mathematics in RMS, Ajmer vide appointment order dated 23.06.1993. He has

now been transferred to RMS, Chail vide impugned order dated 08.03.2013 (Annexure A/1).

3. According to the applicant, he met with an accident in 2006 and got his left leg fractured for which he underwent medical treatment and till now he is not fully recovered from the same. Still, when he walks continuously, there is swelling and pain in his leg. In the year 2011, due to an internal infection in the said portion of his leg, he underwent a surgery and remained on medical leave from 02.09.2011 to 15.09.2011. According to him, he was advised by the doctor that he should "avoid standing for long time and stair up and down".

4. The applicant further stated that his daughter is studying in 10th standard and his son in 12th standard. He has also been preparing for JEE (main), JEE (advance Exams) and NDA SSB examinations which are scheduled to be held on 07.04.2013, 02.06.2013 and 22.04.2013, respectively. He has also referred to the respondents' own letter dated 15.03.2013 wherein it was held that as per the policy all teaching staff are liable to be transferred on completion of 6 years of service in respective Rashtriya Military School. In the said letter, it was also held that the prolonged stay in one school deprives other teachers the facilities that are available in that region, like the higher education and Specialist Hospital facilities etc. However, in cases of genuine problem where school authorities are convinced that the case can be treated as an exception by violating the



Govt. policy, it may be considered and recommended by the Principal on the merit of each case. According to the applicant, his case falls in the said exceptional category and therefore his case was duly forwarded by the Principal of his School.

5. He has further submitted that he had also incharge of the NCC camp at Ajmer but vide representation dated 04.10.2011, he had resigned from that post due to severe ailment or Cellus that has affected his nervous system of the foot as well as irregular blood supply of the affect region.


6. The respondents in their reply have submitted that the applicant has been transferred as per the transfer policy in vogue and, therefore, he has no locus standi to challenge the same. According to the transfer policy, one can be transferred to any other RMS after completion of six years of service in a particular school. They have also stated that in his appointment letter also, the said condition of transfer has been specifically provided, as such, the applicant has no locus to challenge the transfer order, which has already been made in terms of his appointment letter.

7. They have further stated that the applicant was appointed as Assistant Master (Maths.) in the month of June, 1993 at RMS, Ajmer and he had completed about 20 years of service there. It was for that reason, he has been transferred from the said school. Thus, the transfer order of the applicant cannot be said

to be arbitrary or capricious. They have also stated that the applicant has been rendered service in RMS Ajmer even after he met with accident in 2006. In addition to his specific duties of teaching, he has also been working as Care ANO NCC and he has attended even the recently concluded NCC camp (Army Junior Division) held at Kayad Vishram Sthali, Ajmer along with the cadets from 18 January to 27th January, 2013. He has also stated that Chail has got adequate medical facility and there are good specialist medical institutes and colleges.

8. During the course of arguments, learned counsel for the applicant has submitted that the applicant is not against his transfer but his request is only that he should not be posted to a hill station where there will be difficulty for him to walk with his affected leg.

9. I have heard learned proxy counsel Shri Surendra Singh for Mr. Man Singh Gupta, learned counsel for applicant and Shri Ashish Kumar, learned counsel for the respondents. The applicant is challenging his transfer order to Chail not on any ground of violation of the rules, policy or on any mala fides action on the part of the respondents. He himself has submitted that he is liable to be transferred but his only contention is that as far as possible he should not be posted to any hill station including Chail.



10. It is a well settled proposition of law that the Courts / Tribunals have got very limited scope to interfere with the transfers and postings of the employees made according to the transfer policy and as per the administrative requirements. In this case, the applicant was transferred according to the transfer policy. Those teachers who have put in more than six years of service at a particular place have to be transferred out. In the case of the applicant, he has been posted at RMS Ajmer for the last about 20 years. Therefore, there is no valid ground for the applicant to challenge his transfer order. In view of the above position, I am not inclined to set aside the impugned order. However, in view of the fact that the applicant is not challenging his transfer per se but only requesting for a posting in a non-hilly area, the department may consider the same and pass appropriate orders within a period of one month from the date of receipt of a copy of this order and the applicant to bound to abide by the same.

11. With the aforesaid observations, this Original Application is disposed of. There shall be no order as to costs.


(G. GEORGE PARACKEN)
JUDICIAL MEMBER

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