

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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ORDER SHEET

ORDERS OF THE TRIBUNAL

20.08.2013

OA No. 573/2013

Applicant present in person.

Mr. R.G. Meena, Addl. Asstt. Director (Legal), Departmental representative for the respondents.

Applicant present in person submits that he has filed rejoinder. Thus the pleadings are complete.

List it on 23.08.2013 for hearing.

Anil Kumar  
(Anil Kumar)  
Member (A)

ahq

23.08.2013

OA No. 573/2013

Applicant present in person.

Mr. Mukesh Agarwal, Counsel for -  
- Respondents.

Heard.

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

Anil Kumar

[Anil Kumar]  
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 573/2013

**DATE OF ORDER:** 23.08.2013

**CORAM**

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Rajiv Yadav S/o JPS Yadav, working as Director (Records), C/o CESWC Jaipur-12, R/o P-579/01, Nirman Vihar, Military Station, Jaipur - 302012.

...Applicant

Applicant present in person.

**VERSUS**

1. UOI through Secretary, MOD, South Block, New Delhi - 110011.
2. Chief Engineer, South Western Command, PIN - 908546, C/o 56 APO.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

**ORDER (ORAL)**

The applicant has filed the present Original Application praying for the following reliefs: -

- i) Quash and set aside the movement order vide letter dated 18<sup>th</sup> July, 2013 (Annexure A-1) and direct the respondent to expedite consideration and disposal of applicant's request for posting to Delhi on medical requirement (as super speciality medical facilities are not available in Udhampur) and subsequent issue of movement order with reasonable time to plan move and receive TA advance; and
- ii) To award exemplary costs; and
- iii) To pass any other order as this Hon'ble Tribunal deem fit in the interest of justice."

*Anil Kumar*

2. From the perusal of clause 8 regarding 'relief sought' as quoted above, it is clear that the applicant has sought the following reliefs:

- (1). To quash and set aside the movement order dated 18<sup>th</sup> July, 2013 (Annexure A/1),
- (2). The respondents be directed to expedite consideration and disposal of applicant's request for posting to Delhi on medical requirement (as super speciality medical facilities are not available in Udhampur),
- (3). Subsequent issue of movement order with reasonable time to plan move and
- (4) To receive T.A. advance.

3. Brief facts of the case are that the applicant was transferred from Jaipur to Udhampur vide order dated 04.09.2012 and his movement order was issued on 05.09.2012. Aggrieved by these orders, the applicant had filed an O.A. No. 3031/2012 before the Central Administrative Tribunal, Principal Bench, New Delhi. This O.A. was dismissed by the Principal Bench of the Tribunal vide order dated 10.07.2013 (Annexure R/2).

4. After the disposal of the Original Application by the Central Administrative Tribunal, Principal Bench, New Delhi, the respondents issued the movement order of the applicant dated 18.07.2013 (Annexure A/1). Being aggrieved by the movement order dated 18.07.2013; the applicant filed the present Original Application. He has also filed a Misc. Application No. 271/2013. In this Misc. Application also, the applicant requested to quash and set aside the movement order dated 18.07.2013. After hearing the applicant in person, this Bench of the Tribunal vide order dated 13.08.2013 held that "*the movement order of the*

*Anil Kumar*

*applicant dated 18.07.2013 (Annexure A/1) has been passed after the OA of the applicant was dismissed by the Principal Bench, Central Administrative Tribunal, New Delhi. Therefore, the respondents cannot be directed at this stage to allow the applicant to join duty at Jaipur from where he has been transferred to CE (AF) Udhampur."* Thus, this Bench of the Tribunal has already decided the issue with regard to the movement order dated 18.07.2013 (Annexure A/1). Since this issue has already been decided, therefore, the prayer with regard to direct the respondents to issue a fresh movement order with reasonable time to plan move is also stands decided. Further, as movement order dated 18.07.2013 (Annexure A/1) has not been quashed and set aside by this Bench of the Tribunal, therefore, any direction to the respondents to issue a fresh movement order with reasonable time to plan move cannot be issued.

5. With regard to the applicant's prayer to direct the respondents to expedite consideration and disposal of applicant's request for posting to Delhi on medical grounds is concerned, learned counsel for the respondents submitted that it has already been considered by the respondents and vide letter dated 08.08.2013 (Annexure R/4 of the reply), the same has been rejected. Therefore, he submitted that the issue with regard to the consideration and disposal of his representation for posting to Delhi on compassionate grounds has also been considered by the respondents and if he is aggrieved with this decision of the respondents then he can redress his grievances before the appropriate forum. However, the applicant submitted that his representation has been rejected by the incompetent

*Amal Kumar*

authority i.e. the Directorate General of Personnel, while his representation should have been decided by the Secretary, Ministry of Defence, who is the competent authority to issue transfer orders of the applicant.

6. Having heard the rival submissions of the respective parties, I am of the opinion that the respondents have considered the representation of the applicant for his posting to Delhi on compassionate grounds and have rejected it. Therefore, in my opinion, no direction can be issued to the respondents to consider his request afresh. However, if the applicant is aggrieved by the order dated 08<sup>th</sup> August, 2013 (Annexure R/4) then he is at liberty to redress his grievances before the appropriate forum.

7. With regard to the relief clause regarding sanction of T.A. advance to the applicant, it was submitted by the learned counsel for the respondents that the T.A. advance has been sanctioned to the applicant. It was admitted by the applicant that T.A. advance has been sanctioned in his favour. Thus, this issue is also settled.

8. In view of the above discussions, I am of the opinion that the Original Application has no merit and consequently, it is dismissed with no order as to costs.

*Anil Kumar*  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER