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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No.060/00736/2014

Decided on: 27.08.2014

**Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Mr. Uday Kumar Varma, Member (A)**

MES- 194514 S.K. Mishra s/o Sh. S.C. Mishra, Sr. Architect, Director (Architect), O/oHead Quarter, Chief Engineer, Bathinda Zone, Bathinda, District Bathinda.

.....Applicant

Versus

1. Union of India, represented by Secretary to the Government, Ministry of Defence, South Block, New Delhi.
2. Military Engineering Service through Engineer-in-Chief, Army Head Quarter, South Block, New Delhi.
3. The Director General (Personnel), E1B, Military Engineer-in-Chief Branch, New Delhi -110011.
4. Head Quarter, Chief Engineer, Bathinda, District Bathinda.

.....Respondents

Present: Mr. K.S. Chahal, counsel for the applicant

Order

By Hon'ble Mr. Sanjeev Kaushik, Member(J)

1. Heard. Learned counsel for the applicant contends, inter alia, that the impugned order dated 18.07.2014(Annexure A-1) issued by the respondents whereby the applicant has been transferred from CE Bhatinda Zone to Shillong Zone, is in contravention of their

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own policy which provides that before issuance of turn over postings, the respondents will issue a warning list of all officer (rank wise and cadre wise), at least 4-6 months in advance for all those who are due for posting to tenure/hard stations. He submits that a similar matter came up for consideration before the Hyderabad Bench of the Tribunal in the case of Pankaj Chaudhary (O.A. No. 42/2014) wherein the issue regarding violation of the above clause of the policy was considered and the impugned transfer order issued in derogation thereof was set aside.

2. Learned counsel for the applicant further submits that before approaching this Tribunal, the applicant had made a representation dated 26.07.2014 which has been rejected by the respondents vide order dated 19.08.2014. Learned counsel contends that the points raised in the representation have not been dealt with in the order passed by the respondents and therefore, the same is a non-speaking one. We find merit in the plea taken by the learned counsel for the applicant. The order dated 19.8.2014 does not pass the text of reasoned and speaking order. No reasons have been given while rejecting the claim of the applicant. Failure to give reasons amounts to denial of justice. The administrative authority that is discharging quasi judicial duty is required to give reasons while rejecting any claim. Because if the reasons are given then it will be easier for the applicant to

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challenge the order effectively before the Court of law by concentrating only on those points which did not find favour to the authority. Even in respect of administrative orders Lord Denning M.R. in **Breen v. Amalgamated Engg. Union** (1971) 1 All ER 1148, had observed that "giving of reasons is one of the fundamentals of good administration". In **Alexander Machinery (Dudley) Ltd. V. Crabtree** 1974 ICR 120 (NIRC) it was observed "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The law laid down by the lordships of Honourable Supreme Court in the case of **Raj Kishore Jha versus State of Bihar & Others**, 2003(11) CC 519 as again reiterated in **Ram Phal Vs. State of Haryana**, 2009(3) SCC 258, decided on 6.2.2009 is that "reason is the heartbeat of every conclusion. Without the same, it becomes lifeless".

3. In view of the fact that the respondents have issued the impugned order in violation of their own policy guidelines, particularly clause 1(c) thereof, coupled with the fact that they have rejected the representation of the applicant by passing a non-speaking order, without dealing with the points raised therein, we quash the order dated 19.08.2014 (Annexure A-4) and remit the matter back to the respondents to re-consider the representation of the applicant

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in the light of their own policy. The respondent are directed to pass a fresh reasoned and speaking order on the representation within 15 days from the date of receipt of a copy of this order and till then the operation of the impugned transfer order qua the applicant shall remain stayed. A copy of the order to be passed by the respondents shall be communicated to the applicant.

4. Disposed of accordingly.

5. Dasti.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: Chandigarh
Dated: 27.08.2014

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