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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00527/2014 &
MA No.060/01079/2014

Date of Decision : 14.8.2014
Reserved on: 12.08.2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

1. Army No.6827196P Baljinder Kaur, UDC working in the office of Garrison Engineer, Amritsar.
2. MES No.315703 Sandeep Kumar, UDC, working in the office of Garrison Engineer, Amritsar.

Applicants

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi.
2. The Engineer in Chief, Army HQ, New Delhi.
3. The Chief Engineer, Western Command, Chandimandir.
4. Commander Works Engineer, Amritsar.
5. Garrison Engineer, Amritsar.

Respondents

Present: Mr. Shailendra Sharma, counsel for the applicants
Mr. Rajesh Punj along with Ms. Namita Kandhari, counsel for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. MA No.1079/2014 has been filed seeking stay of operation of the impugned transfer order dated 06.06.2014 (Annexure A-3) and movement order dated 07.08.2014 (Annexure A-7). When the MA was

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taken up for consideration, it was observed that pleadings in the matter were complete and hence with the consent of the learned counsel for the parties arguments were heard.

2. This OA has been filed seeking the quashing of the posting order dated 06.06.2014 (Annexure A-3) through which the applicants along with 26 other employees had been transferred from their present locations to other locations within CWE Amritsar Complex. It is claimed in the OA that the transfer orders are discriminatory as persons with longer stay have not been shifted from Amritsar or have been transferred to locations close to or within Amritsar while the applicants have been posted to Gurdaspur. Regarding the case of applicant no.1 averment has been made that as per para 59 of the Guidelines for Management of Group 'C' and 'D' posts female employees are not to be posted to station / complex more than 80 kms from their existing station / complex to the extent possible while the applicant had been moved to Gurdaspur which was more than 80 kms away from her present location.

3. Written statement has been filed on behalf of the respondents, wherein it has been stated that the applicants have been transferred 77.5 Kms from their present place of posting i.e. from Amritsar Cantt. to Tibri Gurdaspur, Punjab, so the applicants have no right to challenge the same. The transfer of the applicants is within the complex as per Appendix B,

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referred to in para 38 and 46 of the Guidelines for Management of Group 'C' and 'D', posts of MES. As per the complete copy of the guidelines (Annexure R-1), Annexure 'B' shows that GE, Gurdaspur is to be considered as within the complex under CWE Amritsar. The distance between the two places of posting is 77.5 kms and the postings are in consonance with the guidelines. It is also stated that applicant no.1 has served at Amritsar continuously from 2001 till date i.e. 13 years 9 months and further more applicant no.1 had earlier stayed at Amritsar from 14.03.1996 to 12.08.2000 i.e. for a period more than 4 years, which shows that applicant no.1 has stayed at Amritsar for a period of more than 18 years since she joined service in 1994, so the applicant has no right to challenge the present order of transfer, which is within a distance of 80 Kms. as per the guidelines appended as Annexure R-1. Similarly, applicant no.2 had rendered service at Amritsar for a period of 12 years and 2 months, so both the applicants have no right to stay at a particular place for such a long period.

4. Learned counsel for both the parties have been heard in the matter when they reiterated the contents of the OA, rejoinder and written statement respectively. Since from the material on record, it is clear that the applicants have spent considerable time at Amritsar and even now have been transferred after 13 years in respect of applicant no.1 and 12 years in respect of applicant no.2, there is no merit in the claim of the

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applicants for quashing the impugned order dated 06.06.2014 (Annexure A-3).

5. Transfer is an exigency of service and the Apex Court has from time to time provided guidance regarding judicial interference in matters relating to transfers. In "Shilpi Bose and others. Vs. State of Bihar and others", (1991) 2 Supp. 659, wherein it was held as follows:-

"In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Govt. servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or others, the courts ordinarily should not interfere with the order and instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the Govt. and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest."

In the case of "Kendriya Vidyalaya Sangathan versus Damodar Prasad Pandey and others" (2005(1) R.S.J. Page 328) it was held that "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fide or infraction of any prescribed norms of principles governing the transfer". Further, it has been laid down in the case of S.C. Saxena Vs. Union of India and others, (2006 Supreme Court Cases (L&S) 1890), that transfer is

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an incidence of service and the competent authority is within its rights to transfer an officer while keeping in mind the exigencies of service and it is the duty of the officer so transferred to join at the next place of posting and then take whatever legal remedy is available to him. Recently, the Hon'ble Apex Court has again reiterated in the case of State of Haryana & Others versus Kashmir Singh & Another (2010(4) R.S.J. Page 766) that "transfer ordinarily is an incidence of service, and the Courts should be very reluctant to interfere in transfer orders as long as they are not clearly illegal".

6. Consequently, in the totality of the facts and circumstances of this case, this OA is found to be devoid of any merit and the same is accordingly dismissed, with no order as to costs. MA No.060/01079/2014 also stands disposed of accordingly.


(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.


(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 14.8.2014
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