

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00144/2014

**Order Reserved on 15.7.2014
Pronounced on 18.7.2014**

...
**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A).
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J).**

...
Itwari Lal son of Sh. Mange Ram, resident of House No.2521, Dadu
Majra Colony, Sector-38 West, Chandigarh.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Communications and Information Technology, Department of Electronics and Information Technology, New Delhi.
2. Director, National Institute of Electronics and Information Technology (NIELIT), S.C.O. No.114-116, Sector 17-B, Chandigarh.
3. Additional Director (Admn.), National Institute of Electronics and Information Technology (NIELIT), S.C.O. No.114-116, Sector 17-B, Chandigarh.
4. Deputy Director (Admn.), National Institute of Electronics and Information Technology (NIELIT), S.C.O. No.114-116, Sector 17-B, Chandigarh.
5. Manager, National Institute of Electronics and Information Technology (NIELIT), Extension Centre, Cedarwood Building, Jakhoo Road, Shimla.
6. Manager, National Institute of Electronics and Information Technology (NIELIT), Extension Centre, Kasumpti, Shimla.

... Respondents

Present: Sh. Om Pal Sharma, counsel for the applicant.
Ms. Jyoti Choudhary, counsel for the respondents.

12 —

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

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

- "8 (i) To quash the order dated 6.2.2014 (Annexure A-9) vide which the applicant has been transferred from extension centre Shimla to extension centre Kasumpti at Shimla and necessary directions may kindly be issued to respondents No.1 to 3 to transfer the applicant from Shimla to Chandigarh keeping in view his medical problem in the interest of justice."

2. Facts of the case are not in dispute. The applicant joined Respondent Department in the year 1982 as Sweeper and continued to work at Chandigarh till 20.10.2012 when he was transferred to Shimla vide order of even date (Annexure A-1). The applicant represented regarding cancellation of his transfer on medical grounds. The Department vide order dated 30.10.2012 referred applicant for examination by the Medical Board and as per Medical Certificate dated 8.11.2012 he was declared fit (Annexure A-3).

3. Averment has been made in the O.A. that applicant got himself examined from the General Hospital, Sector-16, Chandigarh regarding his joints problem and he was advised on 19.11.2012 to avoid climbing stairs and squatting etc. (Annexure A-4). Since the

12 —

Respondent Department had assured him regarding adjustment at Chandigarh at a later stage, the applicant joined at Shimla in compliance of the order dated 20.10.2012 but he found it very hard to work at Shimla due to his knee problem. He represented to Respondent No.1 requesting for transfer back to Chandigarh. He was again referred by the Respondent Department for medical examination at Din Dayal Upadhaya (Ripon) Hospital at Shimla and Medical Board issued Certificate dated 6.9.2013 with findings that the applicant should avoid climbing stairs etc. Since the respondents had instead of adjusting the applicant at Chandigarh shifted him from the Extension Centre Shimla to Extension Centre Kasumpti at Shimla vide the impugned order dated 6.2.2014 (Annexure A-9), hence this OA.

4. In the written statement filed on behalf of the respondents preliminary objection has been taken that there is provision for appeal to Executive Director, NIELIT, New Delhi but the applicant has directly approached the Tribunal, hence the present OA is not maintainable as alternate remedy has not been exhausted. Reference has also been made to decisions of Hon'ble Apex Court in State of UP and others versus Gobardhan Lal (2004) 11 SSC-102, Kendriya Vidhalaya Sangathan Vs. Damodar Prasad Pandey 2005(1) RSJ 329, MS. Shilpi Bose and others Vs. State of Bihar (1991) AIR

As —

9

(SC) 532 and Union of India Vs. S.L. Abbas (1993) AIR (SC) 2444 pressing that transfer is an exigency of service and does not merit judicial interference. It has also been stated that the applicant is a habitual absentee hence he was shifted from Chandigarh to Shimla. Since the applicant had stated that he was finding it difficult to climb stairs, he had been shifted to Kasumpti Extension Counter which was on a single floor and hence there was no merit in this OA.

5. Arguments advanced by learned counsel for the parties have been heard when both the counsel reiterated the facts and grounds taken in the OA and the written statement respectively.

6. It is evident from the material on record that the applicant is suffering from joints problem and has difficulty in living in the hill station of Shimla. There is no good reason to interfere with the transfer order dated 6.2.2014 (Annexure A-9) through which the applicant has been transferred from Extension Centre Shimla to Extension Centre Kasumpti at Shimla of NIELIT office which is on single floor. However, keeping in view the medical condition of the applicant, the respondents are directed to consider the case of the applicant for transfer to a location in the plains, preferably Chandigarh, so that he can perform his duties efficiently. Such consideration may

As —

be effected within a period of two months from the date of receipt of a certified copy of this order being served upon the respondents.

7. With the above observations and directions, the O.A. is disposed of. No costs.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 18. 7. 2014.

KR*