

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.628/2017

Monday, this the 20th day of February 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mr. Vijay Kumar Saini
s/o Mr. Hansraj
aged 58 years, Group –A
Designation – Assistant Engineer (E) P
r/o 94-D, GH-10
Sunder Aptt., Paschim Vihar
Delhi – 87

..Applicant

(Mr. Sagar Saxena, Ms. Himanshi Saini and Mr. Rabi Kumar, Advocates)

Versus

1. The Directorate of General
CPWD, Nirman Bhawan
Maulana Azad Road, New Delhi – 11
2. The Special DG
Seva Bhawan
R K Puram, New Delhi
3. DDG-Coordination (Electrical)
N R – CPWD East Block-1
Level-VII, R K Puram
New Delhi

..Respondents

(Mr. Rajeev Kumar, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Notice.

2. Mr. Rajeev Kumar, learned counsel appears and accepts notice on behalf of the respondents.

3. The applicant is aggrieved by his transfer. He is serving as an Assistant Engineer (Electrical) in Central Public Works Department (CPWD). He was transferred vide the impugned order dated 06.12.2016 (Annexure A-1) from Delhi to Lucknow. He made a representation seeking indulgence of the authorities for his retention at Delhi on the ground of his own illness and ailment of his father. The said representation has been declined vide order dated 25.01.2017 (Annexure A-2) mentioning 'regretted'. No reasons have been given.

4. Apart from this, learned counsel for applicant has drawn our attention to the transfer policy (Annexure A-5) notified by the respondents. One of the guidelines reads as under:-

“12.5 (iv) Officers having 2 years residual service may opt either for retention in the station of posting for residual period or may opt for posting to a station of their choice where they propose to settle down after retirement. The request will be considered subject to availability of vacancy at the station chosen and administrative exigency.”

5. It is contended that the applicant has already attained 58 years of age and is retiring on 31.12.2018, meaning thereby he is having less than 2 years of service. Thus he should be allowed the posting of his choice.

6. It is not disputed that the applicant is staying in Delhi since 1983 and on that count the respondents were well within their right to transfer him. However, in view of the specific transfer guidelines, mentioned hereinabove, the case of the applicant is required to be considered by the competent authority. Earlier representation was preferred by him primarily on account of medical grounds, which has been declined. The question of transfer policy has not been considered by the respondents.

7. In this view of the matter, this O.A. is being disposed of at the admission stage itself with the following directions:

- i) The applicant is permitted to make a fresh representation for consideration under paragraph 12.5 (iv) of aforesaid transfer policy within a period of one week.
- ii) On receipt of the representation, the competent authority would consider the same and pass a reasoned and speaking order within a period of one month from the date of receipt of a copy of this order.
- iii) Till the representation is decided, the impugned transfer order shall not be implemented *qua* the applicant.

Order **dasti**.

(**K.N. Shrivastava**)
Member (A)

(**Justice Permod Kohli**)
Chairman

February 20, 2017
/sunil/