

**Central Administrative Tribunal  
Principal Bench**

**OA No.1231/2017**

**New Delhi, this the 11<sup>th</sup> day of April, 2017**

**Hon'ble Mr. P.K. Basu, Member (A)**

Shri Manoj Kumar  
Aged about 54 years,  
Group B in MSME,  
S/o Late Shri A.S. Sharma  
R/o G-447, Sriniwas Puri  
New Delhi-110065.

..Applicant

(By Advocates: Shri A.K. Mishra with Shri Amit Kumar Pandey)

**Versus**

1. Union of India  
Through Secretary  
Ministry of Micro, Small & Medium Enterprises  
Udyog Bhawan, Maulana Azad Road  
New Delhi-110011.
2. Development Commissioner  
Micro, Small & Medium Enterprise  
Ministry of Micro, Small & Medium Enterprises  
Nirman Bhawan, 7<sup>th</sup> Floor, Maulana Azad Road  
New Delhi-110011.
3. Director  
MSME-Development Institute Industrial Estate  
Digiana, Jammu-180010.

..Respondents

**ORDER (ORAL)**

Heard the learned counsel

2. The applicant has challenged the order dated 06.02.2017 transferring him to MSME-DI, Calcutta from Jammu in the interest of Organisation and keeping in mind need of the office at Calcutta. It is stated in the order that the applicant has served for a considerable time in Delhi region and his retention in Delhi at this stage is not possible. The order also states that the applicant is a habitual offender and has remained recurrently absent from duty. There is also an allegation that he had manhandled the Director, DI, Jammu.

3. The applicant states first of all that as per Transfer Policy circulated vide Memo dated 29.10.2007, officers of Group 'C' staff, to which category the applicant belongs, would be transferred only within the State/Region. The exact provision of Sub-rule XV is quoted below :-

**“(XV)** While All India Service Liability will be continued to be enforced for Group 'B' and Group 'A' staff, the transfer of Group 'C' staff such as, Investigator, Junior Hindi Translator, Office Superintendent, etc. would be done only within the State/Region unless otherwise warranted under extreme circumstances.”

4. It is further stated that in fact, this transfer of the applicant has resulted due to some ill feeling of the Director, Jammu, against the applicant and he further alleged that the applicant was being tortured by the Director.

5. It is added that the applicant had first approached this Tribunal in OA No.4111/2016, which was disposed of with the direction to the respondents to consider the representation of the applicant and then pass a reasoned order. The reasoned order is the order dated 06.02.2017. It is further argued that the respondents have issued an Office Order dated 29.11.2016 transferring him from Jammu to Calcutta with immediate effect in public interest without stating the exact nature of public interest involved in such transfer. The order dated 06.02.2017 is the subsequent order giving reasons why he has to be transferred from Jammu to Calcutta.

6. Heard the learned counsel for applicant and perused the various orders. As would be seen, normally a Group 'C' staff's transfer would be only within the State/Region unless otherwise warranted under extreme circumstances. Clause 13 clearly states that all employees have All India transfer liability in the exigencies and interest of public service. Office Order dated 06.02.2017 explains in detail why the Department had to take this decision to transfer him out of Jammu and to post him at Calcutta. The circumstances surely can be called extreme circumstances and in public interest. I, therefore, do not, want to interfere with the order dated 06.02.2017. Also, the Hon'ble Supreme Court in **S.C.**

**Saxena Vs. Union of India & Ors.** 2006 SCC (L&S) 1890 has

held as follows :-

“6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.”

7. In view of the facts in this case and the **S.C. Saxena** (supra) judgment, I do not see any merit in the OA. Accordingly, the same is dismissed in *limine*. No costs.

( P.K. Basu )  
**Member (A)**

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