

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1308/2016

Reserved on : 12.05.2016.

Pronounced on : 17.05.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Sh. K.K. Bansal,
57 years,
Deputy Director,
National Water Development Agency,
B-248, Mohan Garden Ext.,
Dwarka Mor, New Delhi. Applicant

(Applicant in person) Versus

1. Union of India through the Secretary,
Government of India, Ministry of Water
Resources, River Development and Ganga
Rejuvenation, Shram Shakti Bhawan,
New Delhi-110001.
2. Director General,
National Water Development Agency,
18-20 Community Center, Saket,
New Delhi-110017. Respondents

(through Sh. Deepak Bhardwaj, Advocate)

O R D E R

The applicant initially joined respondent organization as an Asstt. Engineer on 16.12.1985. Gradually, he rose to the level of Executive Engineer. On 17.03.2015, he proceeded to join Delhi State Industrial & Infrastructure Development Corporation Ltd. (DSIIDC), Delhi as Superintendent Engineer on deputation. On completion of his deputation term, he was repatriated to his parent cadre on 17.03.2016 and was relieved to join there on 18.03.2016. Vide impugned order dated 17.03.2016 of respondent No.2, the applicant was transferred as Executive Engineer, Investigation Division, NWDA, Patna.

Aggrieved by this order, the applicant has approached this Tribunal by filing this O.A. seeking the following relief:-

- “(I) That the transfer order dated 17.03.2016 is quashed and set aside.
- (II) That the respondent may be directed to post the applicant at HQ office Delhi/last place of posting i.e. Lucknow till vacancy arise at Delhi.
- (III) To allow the O.A. with exemplary cost.
- (IV) To pass such order and further order which their lordship of this Hon’ble Tribunal deemed fit and proper in the existing facts and circumstances of the case.”

2. His grievance is that he has attained 57 years of age and was within three years of his superannuation. Therefore, as per transfer policy, his request for posting at choice station should have been considered. However, the respondents have ignored his request for posting him in Delhi or Lucknow and posted him to Patna. He has also argued that there were several officers, who were continuing in Delhi for long but have still been retained in Delhi, some of the names of officers he has mentioned on page-52 of the paper-book. This, he alleged was in violation of CVC guidelines which prescribe rotation of officers working in sensitive posts every two or three years. On the other hand, he argued, he has been transferred from Delhi within one year even. The respondents have also ignored his family problems, which include health of his family members as well as the fact that his daughter was studying in B.Tech course. He also stated that the post in Patna where he has been posted was not vacant as one Sh. A.S. Nayak has been posted and his transfer order has not been changed as is evident from O.M. dated 20.01.2015 (page-66 of the paper-book).

3. In their reply, the respondents have submitted that it was the prerogative of the competent authority to transfer an employee to any place in the interest of work and no employee had any right to continue on a particular post or

particular place of his choice. Transfer was only an incidence of service. The applicant had liability of serving anywhere in India. Further, the respondents have submitted that the applicant's representations dated 17.03.2016, 19.03.2016 and 28.03.2016 for posting in Delhi were also considered sympathetically. However, since no vacancy was available in Delhi, his request was not acceded to. The applicant instead of joining at Patna has rushed to this Tribunal by filing this O.A. In support of their stand, the respondents have relied on the judgments of Hon'ble Supreme Court in the case of **Rajinder Singh Vs. State of UP**, 2009(15) SCC 1351 and **Shilpi Bose (Mrs) and Ors. Vs. State of Bihar and Ors.**, 1991 Supp(2)SCC 659.

4. I have heard both sides and have perused the material placed on record. I find that in the judgment in the case of **Rajinder Singh Vs. State of UP**, 2009(15) SCC 1351 the following has been observed by the Apex Court:-

"A Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires."

4.1 I also find that in the judgment in the case of **Shilpi Bose (Mrs) and Ors. Vs. State of Bihar and Ors.**, 1991 Supp(2)SCC 659 the following has been observed by the Apex Court:-

"4. In our opinion, the Courts should not interfere with a transfer Order which are 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 malafide. A Government 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 Orders, the Courts ordinarily should not interfere with the Order 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 Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer Orders."

4.2 Further, in the case of **UOI vs. S.L. Abbas**, (1993) 4 SCC 367 Hon'ble Supreme Court has held that executive instructions issued by the Government are in the nature of guidelines and do not have the force of statute or law. Hence, for alleged violation of such guidelines, transfer orders should not be interfered with by the Courts/Tribunals. Also in the case of **S.C. Saxena Vs. UOI & Ors.**, 2006 SCC (L&S) 1890 the Hon'ble Supreme Court has held that even if a government servant has any grievance against the transfer order, he should first report for duty at his new place of posting and then go to a court to ventilate his grievances. The conduct of the applicant herein is violative of the orders of Hon'ble Supreme Court as he has not joined at Patna but has rushed to this Tribunal.

5. Considering the above mentioned pronouncements of Hon'ble Supreme Court, I find that the relief asked for by the applicant cannot be granted. I, therefore, dismiss this O.A. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/