

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

O.A. No.2180/2016

This the 6th day of September, 2016

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

Satnarain, LDC, Ex-JC-325127M
Aged about 57 years, S/o Shri Ram Chander
R/o WZ- 721, Flat II-A, Raj Nagar, Part-II,
Palam Colony, New Delhi-110077.Applicant

(By Advocate: Shri M K Bhardwaj)

Versus

1. Union of India, through Secretary
Ministry of Defence, South Block
New Delhi.
2. The Engineer in Chief, E-in-C Branch
Integrated HQ of MOD (Army)
Kashmir House, Rajaji Marg
New Delhi – 110011.
3. The Directorate General (Personal) E1B
Engineer-in Chief's Branch
Integrated HQ of MOD (Army)
Kashmir House, Rajaji Marg
New Delhi – 110011.
4. The Chief Engineer, Headquarters
Western Command, PIN 908543
C/o 56 APO
5. The Chief Engineer, Air Force(WAC)
Palam, Deli Cantt
6. The CWE (AF), Palam, Delhi Cantt.Respondents

(By Advocate: Shri R K Sharma)

O R D E R (ORAL)

Heard the learned counsel for the applicant. Learned counsel for the respondents seeks time to file reply. According to the learned counsel for the applicant, the transfer order dated 22.04.2016 suffers from the lacuna that it has been issued against the transfer policy of

the respondents. According to learned counsel for the applicant the transfer is against Section 35 (d) of the transfer policy, which is as follows:-

"35(d) The preference will be given to volunteers and newly recruited employees including Ex-servicemen and those recruited under DCRE by E1A should be posted to stations having more deficiency."

He has also stated that the newly recruited individuals have been retained at Faridabad and Tuglakabad whereas the applicant, herein, has been transferred to HQ CE WC Chandimandir.

2. Learned counsel for the respondents states that each individual has to undergo his tenure posting which the applicant has not completed. Therefore, he has been sent on transfer on a tenure posting. This is as per the policy of transfer.

3. The Hon'ble Supreme Court in ***S C Saxena Vs. UOI and Others (2006) SCC (L&S) 1890***, has settled the law that any person who is aggrieved by any order of transfer has to first join the new place of posting and then make a representation before the competent authority. In any case, this is a routine transfer on a tenure posting as explained by the learned counsel for respondents. Also, the applicant has an all India transfer liability. The relevant para of the judgment reads thus:-

"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. Apart therefrom,

if the appellant really had some genuine difficulty in reporting for work at Tezpur, he could have reported for duty at Amritsar where he was so posted. We too decline to believe the story of his remaining sick. Assuming there was some sickness, we are not satisfied that it prevented him from joining duty either at Tezpur or at Amritsar. The medical certificate issued by Dr. Ram Manohar, Lohia Hospital proves this point. In the circumstances, we too are of the opinion that the appellant was guilty of the misconduct of unauthorisedly remaining absent from duty."

4. In view of the law settled by the Hon'ble Supreme Court in the aforesaid judgment, the applicant is directed to first join his new place of posting.
5. With the above direction, the OA is dismissed.

(P.K. Basu)
Member (A)

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