

**Central Administrative Tribunal
Principal Bench**

OA No. 4306/2014
MA No.78/2015
MA No.242/2015
MA No.1699/2015

Order reserved on: 05.05.2016
Order pronounced on: 17.05.2016

Hon'ble Mr. V. N. Gaur, Member (A)

Gajendra Singh, aged 55 years, JE (Civil),
S/o Late Sh. Hori Lal,
R/o B-801, Rajasthan Apartments,
Plot No.36, Sector-4,
Dwarka,
New Delhi-110075.

- Applicant

(By Advocate: Sh. A.K.Trivedi)

Versus

1. Union of India
Through its Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Chief Engineer,
HQs CE, Western Command,
Chandi Mandir.
3. The Chief Engineer (AF)
HQ CE(AF) WAC, Palam,
Delhi Cantt-110010.
4. The Garrison Engineer (P)
West, Delhi Cantt-110010.

- Respondents

(By Advocate: Sh. Satish Kumar)

ORDER

The applicant is a Junior Engineer working under respondent no.4. He has challenged the transfer order dated 13.06.2013 by which he was transferred from Garrison Engineer (GE) (P) (West) Delhi Cantt. to GE (AF) South, Palam.

2. The short issue in this case is that the applicant was transferred from GE (P) (West) Delhi Cantt. to GE (AF) South, Palam vide order dated 13.06.2013 issued by CE (WC), Palam under Local Turn Over (LTO) postings. The applicant, however, was not relieved to join his new place of posting till 01.12.2014 when a movement order was issued by GE (P) West. In the meantime, on 17.06.2014 the respondents issued an order renaming the GE (AF) South, Palam as GE (AF) Faridabad. This was followed by order dated 22.12.2014 confirming the availability of accommodation at Faridabad and indicating the offices that were to be shifted to the new location. Respondents had issued a policy in May 2008 titled "Guidelines (for) Management of Gp. 'C' & 'D' Posts of MES" in which the policy regarding posting on LTO was laid down. It provides that regular turn over from sensitive to non-sensitive appointment will be carried out where an individual remains in the same seat/unit for a considerable period, i.e., more than three years. In Appendix-B to the Guidelines, a copy of which is on record at page 23 of the

paper book, the LTO authority and the stations under his jurisdiction were specified. Both the GE (P) (West) Delhi Cantt. where the applicant was posted and GE (P) (AF) South, Palam where he was transferred in 2013 have been shown under CE Delhi Zone. Vide letter dated 28.01.2014 the respondent no.2 issued a "Policy on LTO Posting" indicating a change in the LTO authority in Delhi complex. It provided that LTO authority shall be rotated every three years between CE (AF) WAC Palam and CE Delhi Zone. LTO for Delhi station shall be carried out by CE Delhi Zone w.e.f. 2014 for three years. Both GE (P) (West) Delhi Cantt. and GE (AF) South, Palam were again shown in the jurisdiction of CE(AF) WAC Palam/CE Delhi Zone. On 17.06.2014 the respondents issued another order showing the establishment under Chief Engineer Western Command, Chandi Mandir in which GE (AF) South Palam was renamed as GE (AF) Faridabad.

3. The learned counsel for applicant has contended that under the new policy on LTO posting the GE (AF) Faridabad does not come under the LTO jurisdiction of respondent no.3. The transfer order in respect of the applicant issued in June 2013 is therefore, no more valid. As such, the movement order of the applicant issued on 27.11.2014 is also without jurisdiction.

4. Learned counsel for the respondents has contended that law is well established through several judgments of Hon'ble Supreme

Court that in the matter of transfer posting courts should not interfere while exercising power of judicial review. The order issued by the office of CE (AF) WAC Palam on 13.06.2013 was still valid as GE (AF) South, Palam is still in existence. It was only renamed as GE (AF) Faridabad but the office has not yet shifted. He further submitted that the representation of the applicant dated 18.11.2014 had already been decided by the order dated 03.12.2014 advising the applicant to submit a representation through his new unit. He further referred to the posting policy dated 27.08.2007 which clearly stated that "Posting in the interest of organisation and in the exigencies of the service will always take precedence".

5. We have heard the learned counsels and perused the record. The order of transfer of the applicant had been issued on 13.06.2013 but the respondents themselves did not relieve the applicant for one and a half year. During this period not only the name of the place of posting of the applicant had changed from GE (AF) South, Palam to GE (AF) Faridabad but the documents placed on record also show that its office was in the process of shifting to the new location. Ordinarily, under the posting policy, the respondents have every right to post the employees from one place to another in the interest of exigencies of public service. However, the issue raised by the applicant in this case is the jurisdiction of the officer who had ordered the posting transfer

under the LTO-2013, i.e. Chief Engineer (AF) WAC over the new place of posting at Faridabad. Learned counsel for the applicant has argued that in the policy of 2008 Appendix-B include both GE (W) Delhi and GE (P) (AF) South Palam within the jurisdiction of CE Delhi zone. Letter dated 28.01.2014 showed that these two stations were within the jurisdiction of GE (AF) WAC. However, the letter dated 17.06.2014 issued by E-in-C Branch showed that GE (AF) South, Palam had been renamed as GE (AF) Faridabad which is not covered by the LTO station list enclosed with the letter dated 28.01.2014. The transfer letter of 13.06.2013 in respect of the applicant has, therefore, become infructuous and respondents could not have issued the movement order dated 27.11.2014.

6. We agree with the contention of the applicant that the original transfer order transferring him to GE (AF) South, Palam itself has become infructuous when that station has been renamed as GE (AF) Faridabad and the location of the office is being shifted to the new location which is not under the jurisdiction of the CE (AF), South Palam. The applicant had not refused to move to the new location following the transfer order issued in 2013. It was the respondent who did not release him in 2014, therefore, he cannot be accused of trying to avoid the transfer. If it is only a technicality involving the renaming of an office, as contended by the learned counsel for the respondents,

the respondents should have no difficulty in issuing a fresh transfer order mentioning the new name of the office. But the matter does not appear to be that simple.

7. An important facet of the issue that both the counsels did not touch upon is the rotation of LTO authority every three years stipulated in the letter dated 28.01.2014 referred to above. Currently the LTO authority for GE (S) Delhi where the applicant is posted, is CE Delhi Zone and not CE (AF) WAC Palam. Even if the argument that GE (AF), Faridabad is nothing but renamed office that was GE (AF) (S), Palam, is accepted, the fact is that the transfer order issued by the CE (AF) Palam in 2013 is no more valid since the LTO authority has been vested in CE, Delhi Zone since 28.01.2014. It is nowhere mentioned pleadings of the respondents that CE, Delhi Zone has jurisdiction over GE (AF), Faridabad.

8. We are in agreement with the respondents regarding non-interference by the Courts in the transfer matter. However, this is not a case where the applicant is refusing to join at his new place of posting. He only wants a proper transfer order mentioning his new place of posting. As discussed above, the transfer order issued in 2013 is no more valid (i) since the name and location of the new place posting has changed and (ii) the LTO authority having jurisdiction over the applicant has also changed.

9. Considering the facts and circumstances of this case, the posting order dated 13.06.2013 in respect of the applicant is quashed and set aside. Consequently the movement order dated 27.11.2014 is also quashed and set aside. The competent authority is, however, at liberty to issue fresh transfer order in respect of the applicant keeping in view the administrative requirements. OA is allowed. No costs.

(V.N. Gaur)
Member (A)

‘sd’