

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3893/2015

M.A. No. 3589/2015

M.A. No. 3731/2015

New Delhi, this the 17th day of August, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Sunil Kumar Agrawal, SE,
Aged about 53 years,
S/o Sh. P.D. Agrawal,
R/o P-102, OMQ Air Force,
Vayu Senabad,
New Delhi-110062.

.. Applicant

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Engineer-in-Chief,
E-in-C Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajaji Marg,
New Delhi-110011.
3. Directorate General (Personal) EIB,
Engineer-in-Chief's Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajaji Marg,
New Delhi-110011.

.. Respondents

(By Advocate : Shri Yogesh Mahur for Shri Gyanendra Singh)

ORDER (ORAL)

Heard the learned counsel for both sides.

2. The facts of the case are that the applicant did a tenure/hard posting in Shillong for three years. Thereafter, he was transferred to Delhi on an Executive post which has a tenure of two years and thereafter he was transferred to Kolkata vide order dated 13.10.2015. The applicant seeks setting aside of transfer order to Kolkata and allowing him to complete four years of tenure in Delhi as a choice posting after his posting in Shillong because as per the guidelines on transfer/posting, he is entitled to choice posting after tenure/hard posting.

3. Learned counsel for the respondents drawn my attention, first of all, to the judgment of Hon'ble Supreme Court in **Shilpi Bose & Others Vs. State of Bihar and Others**, (1991) Supp 2 SSC 659 and **Union of India Vs. S.L. Abbas**, (1993) 4 SCC 357, wherein it has been held that "The court should not interfere with transfer orders unless there is violation of mandatory statutory rules or there is an element of mala fide."

4. Moreover, it is stated by the learned counsel for the respondents that the applicant is not entitled to choice posting as he was selected for executive post, for which no choice of

station is considered and that the applicant was fully aware that he is on executive appointment which has tenure of two years. The applicant had even sent a representation for retention at Delhi dated 14.05.2016.

5. I have perused the guidelines regarding transfer/posting as well as the facts of the case. It transpires that after a tenure/hard posting in Shillong, the applicant joined at Delhi on executive posting. Therefore, after two years, he was transferred to Kolkata. The normal tenure in Kolkata will be 3 to 4 years. I do not see any mala fide on the part of the respondents nor any violation of mandatory statutory rules in transferring the applicant to Kolkata, as either the applicant chooses executive posting or choice posting. In any case, the respondents have posted him first at Delhi, which is a very important city and next at Kolkata, which is also a metro city. It is not that the respondents are vindictive. Therefore, the applicant will have to complete his full tenure at Kolkata. The O.A. is accordingly dismissed.

6. In view of final orders passed in the main O.A., both the MAs also stand disposed of. No order as to costs.

(P.K. Basu)
Member(A)