

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 4206/2018
M.A. No. 4731/2018

The 12th day of November, 2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)**

Alok Pandey,
Scientific Officer,
Aged about 43 years, Group 'B',
S/o Shri B.P. Pandey,
R/o N-16, Andrews Ganj Extn.,
New Delhi-110049. .. Applicant

(By Advocate : Shri Sunil Narula)

Versus

1. Director,
Atomic Minerals Directorate for Exp & Research,
Department of Atomic Energy,
Begumpet, Hyderabad-500016.
2. Regional Director,
Atomic Minerals Directorate for Exp & Research, NR
Department of Atomic Energy,
West Block-VII, R.K. Puram,
New Delhi-110066. .. Respondents

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

Heard the learned counsel for the applicant.

2. MA 4731/2018 filed for seeking exemption is allowed.

3. The applicant, a Scientific Officer in the respondent - Atomic Minerals Directorate for Exploration & Research, New Delhi, filed the O.A. questioning the Annexure A/1, Office Order No. AMD/R-133 dated 28.09.2018, whereunder he was transferred from New Delhi to Nagpur, on various grounds.

4. Learned counsel for the applicant mainly submits that the applicant is diagnosed with small lymphocytic lymphoma Stage III (cancer of lymph nodes) in September, 2014 and has been taking treatment for the same in Max Super Speciality Hospital, Saket, New Delhi. In continuation of the said treatment, he was advised to start the medication for suppression of the counts and further progression by a new life saving drug Imbruvica and also for bone marrow transplantation.

5. It is further submitted that since the applicant is taking treatment in New Delhi under the supervision of the Doctors at Max Hospital, if he is permitted to undergo the minimum required treatment under the same doctors and hospital, it would be convenient to him. The representation made to the respondents against the said transfer order was rejected vide Annexure A/4 dated 24.10.2018, while granting extension to join at the new place upto 15.11.2018 for relief from the present station.

6. In **Rajendra Singh & Others v. State of UP & Others**, (2009)

15 SCC 178, the Hon'ble Apex Court held as under:

"6. 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 [see **State of U.P. v. Gobardhan Lal**; (2004) 11 SCC 402].

7. The courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides. In the case of **Shilpi Bose (Mrs.) & Ors. v. State of Bihar & Ors.** AIR 1991 SC 532, this Court held :

"4. In our opinion, the courts should not interfere with a transfer order which is 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 mala fide. 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 overlooked these aspects in interfering with the transfer orders."

8. In **N.K. Singh v. Union of India & Ors.** (1994) 6 SCC 1998, this Court reiterated that the scope of judicial review in matters of transfer of a Government Servant to an equivalent post without adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides or violation of any specific provision."

7. In the circumstances and in view of the fact that the applicant is working in the present place since 2008 onwards, we are not inclined to interfere with the impugned transfer order. However, in the circumstances and in view of the factual situation and ailment of the applicant and medical record, we are of the considered view that the respondents shall permit the applicant to continue at the present place for a limited period of three months from today, after obtaining an undertaking from him to that effect. Accordingly, the O.A. is disposed of. No order as to costs.

Let a copy of the O.A. be enclosed to this order.

Order by **DASTI.**

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

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