

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

**O.A No.4024/2017
With MA No.2142/2018**

**Reserved On:31.07.2018
Pronounced on:02.08.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri B. Krishna, BSO
O/O Garrison Engineer,
New Delhi Age-59 years
Delhi Cantt-110010.

...Applicant

(By Advocate: Shri Janak Raj Rana)

Versus

1. Union of India
Through Secretary,
Ministry of Defence,
South Block,
New Delhi-110010.

2. Directorate General (Pers)/E1B
Engineer-in-Chief Branch,
Integrated HQ of MOD,
Rajaji Marg, New Delhi-10.

3. Headquarters,
Chief Engineer, Delhi Zone,
Delhi Cantt-110010.

...Respondents

(By Advocate: Shri G.S. Virk)

ORDER

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

The applicant, a Barrack Store Officer in the office of the Garrison Engineer, New Delhi, filed the OA questioning the Annexure A-1 transfer order dated 17.04.2017 in transferring him

from New Delhi to Parundu. This Tribunal on 17.11.2017, while issuing notices to the respondents, directed to keep the impugned transfer order in abeyance, qua, the applicant. In pursuance of the said order, the applicant has been continuing in Delhi till date.

2. The applicant submits that as per the Annexure A-3 Cadre Management of MES Civilian Officers – Guidelines dated 25.04.2014 “an officer having less than 3 years remaining service can initiate a request for last leg posting and such requests shall be considered twice a year along with bulk turnovers and these postings will only be on staff appointments, subject to availability of suitable posts in stations of choice. The said last leg posting is given to the officers for a tenure of 2 years in or near their home town or place of officer’s choice to help them in taking care of family/settlement problems depending upon availability of vacancy at that point of time. Such postings will not be on sensitive appointments. While considering such requests, the BOO will also examine the service profile of the officer”.

3. Since the applicant will attain the age of superannuation on 31.05.2019, he made a request vide Annexure A-2 dated 24.12.2016 seeking posting to Secunderabad and Hyderabad Complex, which is his home town. The said request of the applicant was duly recommended vide Annexure A-4 dated 03.03.2017 along with similar requests of others. However, the respondents without considering the same, vide the impugned Annexure A-1 transfer

order dated 17.04.2017 transferred the applicant to Parundu, which is more than 600 kms. from his home town of Secunderabad. The applicant's request for change of the station from Parundu to Secunderabad was finally rejected by the respondents vide order dated 05.09.2017, however, without any reasons. Thereafter, the applicant, vide Annexure A-7 dated 18.09.2017 made another request for change of posting from Parundu to (i) Bangalore (ii) Nagpur (iii) Pune and (iv) Visakhapatnam, but when the said request was not considered and that no orders were passed thereon, the applicant filed the instant OA.

4. Heard Shri Janak Raj Rana, the learned counsel for the applicant and Shri G.S. Virk, the learned counsel for the respondents and perused the pleadings on record.

5. Firstly, it is to be seen that as held by the Hon'ble Apex Court in **Rajinder Singh Etc. Vs. State of U.P. and Others, (2009) 15 SCC 178**, on which the learned counsel for the respondents placed reliance, "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". As held in the same judgment, the only exception is that if the transfer is

vitiated by violation of some statutory provision or suffers from mala fides, then only it can be interfered with by the courts.

6. In the instant case, admittedly, the applicant is attaining the age of superannuation on 31.05.2019 and accordingly, as per the Annexure A-3 Guidelines dated 21.04.2014, he submitted his request for his last leg posting at Secunderabad, which is his home town, but the respondents have not considered the said request and on the other hand transferred the applicant to Parundu from the present place of posting. His representation against the said posting was also rejected without giving any specific reason.

7. The respondents vide their counter states that Secunderabad Station is a sensitive posting and hence as a last leg posting, the same cannot be considered as per the Guidelines under which the applicant made his request. Even out of the alternative stations claimed by the applicant, after his transfer order was rejected, i.e. Bangalore, Nagpur, Pune and Visakhapatnam, the post at Nagpur and Bangalore are also sensitive posting like Secunderabad/Hyderabad. Though in Pune and Visakhapatnam, some posts are sensitive and some are staff postings but in view of the administrative exigencies, the applicant could not be considered against those limited staff postings. Accordingly, they submitted that there is no illegality or irregularity in not considering the

request of the applicant for the last leg posting at his home town or any station near thereto.

8. As observed above, and as submitted by the learned counsel for the respondents, the applicant has no indefeasible right to claim posting/transfer to any particular place, even in terms of the above referred Guidelines. However, it is to be seen the object and purpose of issuance of the said Guidelines. The Guidelines under which the applicant was allowed to make a request for his last leg posting was made keeping in view of the well being of those employees who are due to retire within 3 years. Admittedly, the applicant is being continued at Delhi by virtue of the interim order dated 17.11.2017 passed by this Tribunal till date and that he is having only 10 months service before his retirement. It is also seen that no other officer is specifically posted in place of the applicant at Delhi. In view of the same, if the respondents cannot consider the request of the applicant for posting at Secunderabad, i.e. his home town as last leg posting, they should have continued him at Delhi till his retirement.

9. In the circumstances and for the reasons aforesaid, and in the peculiar facts of the present case, the impugned transfer order Annexure A-1 dated 17.04.2017 is quashed, qua, the applicant and the respondents shall continue the applicant at the present place of

posting till the date of his superannuation, i.e., 31.05.2019, if no other compelling administrative exigencies are prevailing. Accordingly, the OA is disposed of. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS