

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.2061 OF 2018
New Delhi, this the 29th day of May,2018

CORAM:
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
AND
HON'BLE MS.NITA CHOWDHURY, ADMINISTRATIVE MEMBER

.....
Sunder Lal Dumolia,
s/o late Shri Umrao Prasad,
No.940040043, Washerman (Civilian),
Border Security Force Academy,
Tekanpur,Gwalior (MP) Applicant

(By Advocate: Mr.Shanti Prakash)

Vs.

1. The Home Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi 110001
2. Director General,
Border Security Force,
Head Quarter, Block No.10,
CGO Complex,Lodhi Road,
New Delhi 110003
3. Inspector General & Commandant,
Central School of Weapons & Tactics,
Border Security Force,
Bijasan Road, Indore,
M.P. 452005
4. Director,
BSF Academy,
P.O.Tekanpur,
Distt.Gwalior,
MP 475005
5. Deputy Inspector General,

Signal Training School,
BSF, Tigri Camp,
New Delhi 110062 Respondents.

ORDER

Per RAJ VIR SHARMA, MEMBER(J):

The applicant is a member of Scheduled Castes. He was selected and appointed to the post of Washer-man (Non-combatised-Civilian) against a clear existing vacancy available in Signal Training School, BSF, Tigri Camp, New Delhi 110062, vide order dated 15.4.1994 (Annexure A/2). Accordingly, he joined the service. While so continuing in service, he was transferred to Central School of Weapons & Tactics, Border Security Force, Bijasan Road, Indore, M.P. 452005, vide order dated 15.10.2010 (Annexure A/3), where he joined within the period stipulated by the competent authority. When the competent authority called for applications from Civilian employees for the purpose of effecting annual transfers, the applicant made applications for during 2012, 2013, 2014, 2015, 2016 and 2017 requesting the competent authority to transfer him from Central School of Weapons & Tactics, Border Security Force, Bijasan Road, Indore, M.P. 452005 to any of the offices situated in Delhi where clear vacancies were available. His applications were also duly recommended by the concerned authorities. Instead of transferring him to any of the offices situated in Delhi as per his choice, the competent authority, i.e., respondent no.2, vide order dated 14.3.2017, transferred the applicant to BSF Academy, Tekanpur, Gwalior (M.P.). Accordingly, respondent no.3, vide relieving

order dated 10.2.2018, relieved the applicant of his duties in Central School of Weapons & Tactics, Border Security Force, Bijasan Road, Indore, M.P. 452005 and directed the applicant to report for duty at BSF Academy, Tekanpur, Gwalior (M.P.). After joining at BSF Academy, Tekanpur, Gwalior (M.P.), the applicant filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, on 16.5.2018 seeking the following reliefs:

- “a) The relieving order NO.1236/ Estt./ Sanchalan / Transfer/2018/1991-96 dated 10 February, 2018 passed by the Respondent No.3 in pursuance of transfer order No.22014/02/2017-Staff/BSF/2859-60 dated 14th March, 2017 passed by the Respondent No.2 may please be quashed/set aside; and
- b) The respondents may please be directed to transfer the applicant to any of the locations in Delhi; and
- c) pass any other order/directions deemed fit and proper in the interest of justice”.

2. It has been contended by Mr. Shanti Prakash, learned counsel appearing for the applicant that the applicant was an SC Group D civilian employee duly selected and appointed by respondent no.5 and was not liable to be transferred out of Delhi. There were 3 posts of Washer-men were available in STS, BSF, Tigri, New Delhi, when the applicant was transferred from there in the year 2010. No person was posted in his place. The post vacated by him has not yet been filled up by the respondents. Despite clear existing vacancies available in STS, BSF, Tigri, New Delhi and other offices situated in Delhi, and in spite of recommendations by different authorities under whom the applicant has been working, the respondent-authorities, while considering his application for annual transfer, did not transfer him

either to STS, BSF,Tigri, New Delhi or to any of the offices situated in Delhi. No public interest was involved in his transfer from Indore to Gwalior. While making applications for annual transfers, he did not opt for his transfer to Gwalior. The respondents, instead of transferring him from Indore to STS, BSF, Tigri, New Delhi or to any of the offices situated in Delhi, have acted arbitrarily and mala fide in transferring him from Indore to Gwalior. Therefore, the impugned transfer order and relieving order are liable to be interfered with by the Tribunal, and appropriate direction should be issued by the Tribunal to transfer the applicant from Gwalior to STS, BSF,Tigri, New Delhi or to any of the offices situated in Delhi.

3. Considering the facts and circumstances of the case, and the submissions made by the learned counsel appearing for the applicant, we admit the O.A. and direct issuance of notices to the respondents to appear and file counter reply by 2.7.2018. The applicant shall file rejoinder reply, if any, by 20.7.2018. The O.A. shall be listed on 23.7.2018 before appropriate Bench for hearing. The Registry of the Tribunal shall forthwith issue notices to the respondents.

(NITA CHOWDHURY)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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