

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No.060/01246/2017

Chandigarh, this the 1st day of August, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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EX-JC No.207661M, Gurpreet Singh Gujral S/o Sh. Iqbal Singh, age 49 years, working as JE (QS&C) in the office of GE, (P) Air Force, Halwara (Punjab), Group-B.

....APPLICANT

(Present: Mr. D.R. Sharma, Advocate)

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Engineer in Chief, Military Engineer Services, Engineer-in-Chief's Branch, Integrated Headquarters of MoD (Army), Kashmir House, DHQ, PO, New Delhi.
3. Headquarter, Chief Engineer, Western Command, Chandimandir, Panchkula (Haryana).
4. Garrison Engineer, (Project), Air Force, Halwara (Punjab).

....RESPONDENTS

(Present: Mr. K.K. Thakur, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

The present Original Application (OA) has been filed by the applicant against the impugned order dated 10.03.2017 (Annexure A-1), whereby he has been transferred from Halwara to Srinagar, and also to quash letter dated 03.10.2017 (Annexure A-12), his

representation has also been rejected, on the plea that Srinagar is not a high altitude area.

2. The facts are not in dispute.

3. The applicant was initially appointed in Indian Army on 24.12.1990. After rendering 22 years of service, he was retired from Army on medical ground, vide order dated 31.05.2012, as the applicant developed a disease during Army service for which he was declared unfit. After his discharge from Military Service, the applicant was re-employed as Junior Engineer (QS&C) on 05.06.2012, and was posted in Adampur. Since the applicant is suffering from Acute Limb ischemia, Right Upper Limb (Brachial Artery Thrombosis) disease, it has been advised that he cannot be posted in high altitude area and extreme cold climate area. Prior to the present transfer order in the year 2014, by order dated 19.09.2014, the applicant was sought to be transferred from the present place of posting at Adampur to Kargil. The said transfer became subject matter before this Tribunal in OA No.060/00921/2014, which was decided on 08.12.2014, having been rendered infructuous, as order was withdrawn by the authorities.

4. It is the case of the applicant, that the applicant continued to perform his duties at Adampur till 13.12.2016 and then to office of respondent no.4 but vide impugned order dated 10.03.2017 (Annexure A-1), he has again been transferred to Srinagar against which the applicant is before this court.

5. The applicant has taken various grounds for invalidation of impugned order. Firstly, that before passing the impugned transfer

order, the respondents have not considered the fact that the applicant cannot be posted in high altitude area due to his medical condition, and he was retired from Army on medical ground itself. He submitted that even when the applicant submitted a representation, without looking into the medical report that he cannot be posted at high altitude area, respondents have rejected his claim, which is illegal and arbitrary. In support of the above plea, learned counsel for the applicant argued that the impugned order is non-speaking, as the applicant cannot be posted in high altitude area and extreme cold climate area. He submitted that the medical report of the applicant issued by Army Hospital has advised that he was unfit for posting to high altitude area / extreme cold climate area, and as such he was discharged from service. This vital aspect cannot be ignored by the authorities.

6. We have given our thoughtful consideration to the above noted facts and the submissions made by both sides, and are of the view that though in transfer matters the court generally does not interfere unless there are allegations of malice, or it is made in violation of any statutory provisions, but since the applicant has been declared medically unfit for posting to not only a high altitude area and but also extreme cold climate area, we deem it appropriate to direct the respondents to reconsider the claim of the applicant in the light of medical condition of the applicant.

7. Accordingly, we dispose of the present OA with a direction to the respondents to reconsider his claim on the basis of medical

condition of the applicant, within a period of four weeks from the date of receipt of a certified copy of this order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 01.08.2018.

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