

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO.060/00662/2018**

**Decided on 30.05.2018**

...

**CORAM: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)  
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

MES No.511087, Prashant Tyagi S/o Sh. Shiv Kumar Tyagi, aged 30 years, working as Junior Engineer (Civil), office of Garrison Engineer, NAMS, Amritsar (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 Engineering Service, E-in-C Branch, Integrated HQs of MOD (Army), Kashmir House, New Delhi 110011.
3. Headquarters, Chief Engineer, Northern Command, Udampur, C/o 56 APO 180003.

**....RESPONDENTS**

**ORDER**

**HON'BLE MRS. P. GOPINATH, MEMBER (A):-**

Applicant applied for the post of Junior Engineer by Rojgaar Samachar, notification on 22.12.2007 recruitment was to be done through an Open Competitive Examination on all India basis. The posts offered for employment were also for All India Services Liability (AISL). The Competitive Exam consisted a written exam and personality test. Applicant submits that he cleared both the stages of the Competitive Exam and obtained (14<sup>th</sup>) rank in the merit list. Applicant submitted his willingness to be appointed in MES in NWR. Staff Selection Commission asked the applicant for the choice of region for

appointment, and applicant chose Northern Region. Northern Region comprises Chandigarh, Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand. Applicant was posted to GE 881 EWS Poonch, J&K under Northern Command. Thereafter, he was posted to various stations, as indicated in para 4 (7) of the OA.

2. In 2013, on completion of tenure at hard station. Applicant submitted three choice stations i.e. Delhi, Roorkee & Meerut. Instead of obliging the applicant's request for choice stations, the respondents transferred the applicant to Udhampur.

3. Applicant filed OA No.317/JK/2013 and order dated 15.03.2013, was as follows:-

“5. In view of the facts noticed in the course of the proceeding paras, the OA shall stand allowed with the grant of a direction that the applicants shall be liable to be posted within Region ‘A’ (Northern Region) comprising of Delhi, Jammu & Kashmir, Punjab, Himachal Pradesh, Haryana, Uttar Pradesh, Chandigarh, Rajasthan and Uttaranchal.”

4. As per the above order of the Tribunal, J&K is one of the states under Northern Region, which the Tribunal had held as a state where applicant is liable to be posted. Having approached the Tribunal in OA No. 317/JK/2013 and obtaining an order that the applicant is liable for posting in the above mentioned region / states we find that the applicant should not be reverting back to the Tribunal, challenging the posting of the applicant within Northern Region and the above indicated states of which Udhampur in J&K is one of the state allowed by the Tribunal in above OA.

5. It is a settled question of law that an order of transfer can be interfered by the Tribunal only if the order of the transfer is vitiated by malafide or was passed on extraneous and irrelevant considerations or was passed without any authority of law. None of these grounds exists in this case as to compel the

Tribunal to interfere with the transfer order. Transfers, unless they involve any adverse impact or visit the concerned person with penal consequences, are not required to be subjected to same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination. It is for the Head of the respondent organization to maintain quality of service, address administrative exigencies and ensure smooth functioning of the organization administration. This is not a case where applicant was not offered a posting. This is a case where the applicant is making a specific demand to be posted to a particular post in a particular state / station. The respondents have to keep in mind both organizational interest as well as profile and capability of all officers before issuing a posting order.

6. Transfer or posting is not a matter which the applicant can claim as a matter of right. It is neither legal nor proper for the Tribunal to issue directions or advisory summons to the executive as to which post should be occupied by which officer in the Cadre. This is an administrative decision and the Tribunal cannot sit in judgment as to who would best fit in a particular post. Unless an order of transfer is shown to be an outcome of malafide exercise of power or in violation of statutory provision prohibiting any such transfer, it would not be proper for the Tribunal to interfere with such transfer orders as a matter of routine. The competent authority is vested with the right to distribute available man power in exigencies of administration. The appellate jurisdiction of the Tribunal in the matter of transfer is extremely limited. Who should be transferred, where and when, is a matter for the appropriate authority to decide and the Tribunal cannot take on this responsibility.

7. The Apex Court in *Rajendra Singh Vs. State of UP*, (2009) 15 SCC 178, has correctly opined in Para 5 that 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. In *Shilpi Bose Vs. State of Bihar* (AIR 1991 SC 532), the Apex Court has held that even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order; instead the 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.

8. In *N.K. Singh Vs. UOI*, 1994 SCC(6) 98, the Apex Court has held that the scope of judicial review in matters of transfer of a government servant to an equivalent post without any adverse consequence on the service or career prospects is very limited being confined only to the ground of mala fide and violation of any specific rule provision. We find that both are not attracted in this case.

9. For the foregoing discussion and the Supreme Court law prevailing on the point of limited interference in transfer matters, and the Tribunal order in OA No.317/JK/2013, we feel constrained to offer any relief to the applicant. OA, being devoid of merit is dismissed.

**(JUSTICE M.S. SULLAR)**  
**MEMBER (J)**

**(P. GOPINATH)**  
**MEMBER (A)**

**Dated: 30.05.2018**

*`rishi'*