

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/438/2018

Jabalpur, this Friday, the 07th day of September, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Vazir Khan,
 S/o Late Shri Nazir Khan
 Aged about 47 years
 Presently working as
 002999 Durwan
 Ordnance Factory Khamaria
 Jabalpur (Madhya Pradesh)
 R/o Behind Mazid,
 Gorakhpur
 Jabalpur (M.P.) 482008

-Applicant

(By Advocate –**Shri Manoj Sharma**)

V e r s u s

1. Union of India,
 Through its Secretary
 Ministry of Defence (Production)
 136, South Block, New Delhi 110001

2. Chairman
 Ordnance Factory Board
 10-A S.K. Bose Road
 Kolkata -01

3. General Manager
 Ordnance Factory Khamaria
 Khamaria, Jabalpur

- Respondents

(By Advocate –**Shri S.P. Singh**)
(Date of reserving the order:20.07.2018)

ORDER
By Ramesh Singh Thakur, JM:-

This Original Application has been filed by the applicant against the order dated 27.03.2018 (not served to applicant) whereby the respondent No.2 has transferred him from Ordnance Factory Khamaria, Jabalpur to Ordnance Clothing Factory Avadi, Chennai and also the relieving order dated 13.04.2018 (Annexure A-1), whereby he has been relieved.

2. The applicant in this Original Application has prayed for the following reliefs:-

“8(i) Call for the entire material record pertaining to the instant controversy from the respondents for its kind perusal.

8(ii) Quash and set aside the impugned orders dated 27.03.2018 (not served to applicant) and relieving order dated 13.04.2018 Annexure A/1

8(iii) After quashment of impugned orders dated 27.03.2018 and 13.04.2018, direct the official respondents may kindly be pleased permit applicant to continue at Ordnance Factory Khamaria, Jabalpur.

8(iv) Grant any other relief/s which this Hon’ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.

8(v) Award cost of the instant lis to the applicant.”

3. The case of the applicant is that the applicant was appointed to the post of Durwan in Ordnance Factory Khamaria (OFK), Jabalpur in the year 1997. He has been transferred from OFK,

Jabalpur to Ordnance Factory Warangaon, Bhusawal (M.H) in the year 2005. The applicant was thereafter transferred to OFK, Jabalpur vide order dated 20.06.2015. Now the applicant vide order dated 27.03.2018 has been transferred from Ordnance Clothing Factory Khamaria, Jabalpur to Ordnance Clothing Factory Avadi, Chennai (T.N.) which is about 1500 kms.

3.1 It has been submitted by the applicant that an incumbent is working in a lower post has been transferred frequently in such a far place like Chennai it will not only affect the working ability of employees and also disturb the working atmosphere of organization as the applicant is a Hindi speaking person and less educated does not know English well and also unaware of the local language. In addition to that, the applicant has submitted that there is old age mother who is of 70 years, suffering from old age ailments and also having three daughters who are doing Graduation and studying in Class 12th and his wife is also suffering from heart disease. The applicant has annexed the documents related to ailments of mother and wife of applicant as well as of children at Annexure A-3 and A-4.

4. The replying respondents have filed their reply and it has been submitted by the respondents that during the service period

various penalties were imposed on the applicant due to his misconduct in the year 1999, 2000, 2014 and 2017.

4.1 It has been specifically submitted by the replying respondents that the applicant belongs to Group 'C' and it is not correct to say that lower grade employee are never transferred from one factory to another factory. Though the seniority of Durwan is maintained at the factory level and since the transfer has been ordered in the public interest, his seniority would not be disturbed and would be counted from the date of joining in service as Durwan and not from the date of posting to New Factory. The copy of the Gazette notification is annexed as Annexure R/1.

4.2 It has been further submitted by the replying respondents that the applicant belongs to Group 'C' and their appointment/promotion and transfer are governed by SRO 14/E and such condition has also been clearly mentioned in the appointment order of the applicant as annexed at Annexure R/3.

4.3 The replying respondents have placed on record the letter dated 26.06.2018 (Annexure R/4) whereby the representation of the applicant for cancellation of transfer has been examined by the competent authority and has not been acceded to.

5. We have heard both the parties and also gone through the documents attached with the pleadings.

6. As per Annexure A-1, it is clear that the applicant has been transferred from OFK, Jabalpur to OCF, Avadi on 13.04.2018 and it has been specifically mentioned that transfer/posting of permanent nature in public interest.

7. It is clear from the Annexure R/1 that the applicant belongs to Group C service and as per his appointment letter Annexure R/3 it has been clearly specified that the applicant specified as under :-

“(ज) आपका भारत में किसी भी अर्नेंस फैक्टरी में समय समय पर स्थानान्तरण किया जा सकेगा।”

As per Annexure A-12 note 16 of S.R.O. 14/E 1989 clearly spelt as under:-

“Note 16. The incumbent of posts in this schedule are normally liable for service in the same factory or office in the Ordnance Factories Organisations. But this will be without prejudice to the right of the management in the public interest transfer them to equivalent posts in any other factory or office in the Ordnance Factories Organisation.”

8. It has been specifically submitted by the replying respondents in Para 5 that the seniority of Durwan is maintained at Factory level and transfer has been ordered is in public interest and his seniority would not be disturbed and would be counted from the date of joining in service as Durwan and not from the date of posting to New Factory. Meaning thereby the seniority will be

maintained at the original place from which the applicant has been transferred.

9. Learned counsel for the applicant has relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh in Writ Petition No.6391/2001.

10. The main contention of the applicant is that the applicant belongs to lower cadre and is a Hindi speaking person and less education and does not know the local language of Chennai and it will be difficult to communicate with other employees at OCF, Avadi and also other personal difficulties on account of ailments of mother and wife of the applicant etc.

11. The order of the transfer was issued in the public interest and it is the employer who has to decide regarding the posting of the employee and it is the absolute prerogative of the employer. Regarding the loosing of the seniority does not arise in this case. In view of the reply filed by the respondent in Para 5, we do not find any reason to declare the transfer of the applicant as illegal.

12. During the argument, the applicant has submitted that some post of Durwan are lying vacant in Vehicle Factory Jabalpur/Gun Carriage Factory Jabalpur/Grey Iron Foundry Jabalpur/Ordnance Factory, Katni/Ordnance Factory Itarsi, if it so, the respondents may consider the case of the applicant sympathetically, in view of

the special circumstances narrated in Para 5 and 6 of the Original Application and vacancy position as narrated above.

13. With these observations, this Original Application is disposed of.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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