

**Central Administrative Tribunal
Chandigarh Bench
(Circuit Bench at Jammu)**

**MA No.62/1893/2017 IN
TA No.62/3/2014**

Decided on : 20.09.2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Ms. P. Gopinath, Member (A)

1. Muhammad Shafi Shan, aged 37 years, S/o Assadullah Sha, R/o Tailwani Anantnag, at present Leh-Ladakh.
2. Shabir Ahmad Lone, aged 37 years, S/o Abdul Rashid Lone, R/o Zantrang Pulwama.
3. Ghulam Muhammad Sheikh, aged 35 years, S/o Abdul Gani Sheikh, R/o Sathpukhram.
4. Abdul Rashid Hazar, aged 35 years, S/o Mohammad Sadiq Hazar, R/o Safakadal Srinagar.
5. Raghu Kumar, aged 41 years, S/o Charan Dass, R/o Ramnagar Udhampur.
6. Subash Chander, aged 35 years, S/o Sandokhu Ram, R/o Kanachak, Tehsil & District Jammu.
7. Surjit Lal, aged 35 years, S/o Butty Ram, R/o Bhour Camp Chatha, Tehsil and District Jammu.
8. Ashok Kumar, aged 37 years, S/o Sadiq Masih, R/o Choudarpur, Tehsil and District Gurdaspur (Punjab).
9. Raghbir Singh, aged 38 years, S/o Sh. Kirpal Singh, R/o Devipur Akhnoor, District Jammu.
10. Romesh Kumar, aged 37 years, S/o Late Harbuns Lal, R/o Ward No.9, R.S. Pura, Jammu.
11. Fayaz Ahmed Lone, aged 39 years, S/o Ghulam Mohammad Lone, R/o Khreuk Pulwama.

12. Muhammad Ramzan Teeli, aged 36 years, S/o Ghulam Muhammad Teeli, R/o Khreuk Pulwama.
13. Mohammad Yousaf Lone, aged 38 years, S/o Ghulam Ahmad Lone, R/o Zantrang, Pulwama.
14. Muneer Ahmed Wani, aged 41 years, S/o Abdul Rashid Wani, R/o Zawoor District Srinagar.
15. Kishori Lal, aged 41 years, S/o Dhian Chand, R/o Rajpura Samba.
16. Riyaz Ahmad Shah, aged 40 years, S/o Ghulam Qadir Shah, R/o Zantrang, Pulwama.
17. Muhammad Shaban Bhat, aged 36 years, S/o Abdul Gani Bhat, R/o Zantrang, Pulwama.
18. Hashmat Hussain Bhat, aged 40 years, S/o Abdul Samad Bhat, R/o Zantrang, Pulwama.
19. Raj Kumar, aged 43 years, S/o Late Parshotam Ram, R/o Haler, Pathankot (Punjab).
20. Abdul Rashid Bhat, aged 41 years, S/o Noor Mohd. Bhat, R/o Zantrang, Pulwama.
21. Kashmir Lal, aged 43 years, S/o Babu Ram, R/o Sohal, Gurdaspur (Punjab).
22. Sanjeev Kumar, aged 37 years, S/o Sh. Ramesh Kumar, R/o Gurdasnangal Gurdaspur (Punjab).
23. Puran Chand, aged 34 years, S/o Hari Ram, R/o Nagrota Udhampur.
24. Romesh Kumar, aged 36 years, S/o Jeet Kumar, R/o Satwari, Jammu.
25. Jai Prakash, aged 40 years, S/o Late Sh. Dhinanath, R/o Ramnagar Udhampur.
26. Varinder Kumar, aged 41 years, S/o Joginder Paul, R/o Sansarpur, Tehsil and District Jalandhar.

27. Pawan Kumar, aged 37 years, S/o Sain Dass, R/o Sidhawan Jamita Gurdaspur.
28. Darshan Kumar, aged 33 years, S/o Sh. Gian Chand, R/o Tehsil Majalta, District Udhampur.
29. Ajit Singh, aged 34 years, S/o Sh. Mohan Lal, R/o Pandorian Bishnah.
30. Abdul Majid Kumar, age 38 years, S/o Mohd. Manwer Kumar, R/o Chandilora, Baramula.
31. Ali Muhammad Mir, aged 40 years, S/o Mohd. Ramzan Mir, R/o Zantrang, Pulwama.
32. Muzaffar Ahmad Ganie, aged 38 years, S/o Abdul Ganie, R/o Anantang.
33. Bashir Ahmad Lone, aged 38 years, S/o Muhammad Maqbool Lone, R/o Zantrang, Pulwama.
34. Sudesh Kumar, aged 41 years, S/o Girdhari Lal, R/o Rathian Udhampur.
35. Surinder Kumar, aged 41 years, S/o Kapoor Chand, R/o Akhnoor Jammu.

... Applicants

(By Mr. Rahil Raja, Advocate.)

Versus

1. Union of India, through Secretary, Ministry of Defence, North Block, New Delhi.
2. Additional Director of Manpower MP-4, Civil.
3. Adjutant General's Branch, Integrated Headquarter of Ministry of Defence (Army), DHQ, New Delhi 110011.
4. Administrative Commandant for Station Commander, Station Headquarter Leh, C/o 56 APO.
5. Station Commander, Station Headquarters, Leh, C/o 56 APO, Pin 9086602.

... Respondents

(By Mr. Harshwardhan Gupta, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

1. The applicants have been recruited as Conservancy Safaiwala in the Station Headquarter, Leh more than a decade ago. They approached the J&K High Court by filing a SWP No. 1445/2011 with a prayer to transfer them outside Leh Ladakh to any place which, the respondents may so choose without being influenced by Defence Ministry Office Memorandum bearing No. 2(4).73/d(APPTS) dated May, 1975 and for a direction to consider the representations made by them from time to time and the Legal Notice dated 27.04.2011 issued by them. The Writ Petition was in turn transferred to this Tribunal and was numbered as TA No. 062/00003/2014.
2. The applicants' case is that as per their appointment, they are working at Leh Ladakh under hard weather conditions and though several persons who were appointed in the same station were transferred to the other areas, they have not been transferred.
3. Respondents opposed the TA stating that the posts held by the applicants are not transferrable as per Memo dated 2(4)/73/d (APTS) dated 21.05.1975. TAs were disposed of through an order dated 20.05.2015 observing that the

respondents shall consider the prayer of the applicant for transferring them to various other places on humanitarian grounds.

4. This application has been filed with a prayer to execute the directions issued by the Tribunal in TA No062/00003/2014. The applicants contend that despite directions issued by this Tribunal, the respondents did not transfer them to other places and they are suffering from serious medical problems.

5. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that the posts are not transferable and despite the same, the case of all the applicants was considered on medical grounds as well as for mutual transfer and by now, three of them have been transferred. It is also stated that the station is understaffed, and against 150 Conservancy Safaiwala staff, only 86 are working.

6. We have heard at length learned counsel for the applicant as well as respondents.

7. The applicants are stated to be from State of Punjab and Jammu Region. Knowing fully well the weather conditions of Leh and Ladakh, they applied for those posts at the relevant point of time and got their appointment. In fact they deprived the local people, of their opportunity of being appointed. Applicants were aware at the time of appointment that posts of

this nature are not transferrable. Acting on the basis of a small exception made therein to the effect that any hard case can be considered, limited transfer was being effected on medical grounds or on mutual transfer basis. Applicants cannot expect respondents to transfer them en bloc to places of their choice and comfort.

8. We do not find any ground in this MA, and the same is dismissed. There shall be no order as to costs.

(P. Gopinath)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ND/