

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA No. 471/2019

New Delhi, this the 4th day of February, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Mahinder Kumar Yadav
S/o. Shri Vijay Narayan Yadav,
R/o. D-48, Upper Ground Floor,
Vishwas Park, Uttam Nagar,
New Delhi-110 059.Applicant

(By Advocate : Mr. Mananjay Kumar Mishra)

Versus

1. Union of India
Through the Secretary,
M/o. Civil Aviation,
New Delhi.
2. Directorate General of Civil Aviation,
M/o. Civil Aviation,
Opposite Safdarjung Airport,
Aurobindo Road,
New Delhi.
3. Dy. Director of Administration
Directorate General of Civil Aviation
Opposite Safdarjung Airport,
Aurobindo Road,
New Delhi.Respondents

(By Advocate : Mr. Rajeev Kumar)

O R D E R (ORAL)

By Hon'ble Ms. Aradhana Johri, Member (A) :

The applicant, a Group 'A', Airworthiness Officer has been transferred from Delhi to Bangalore vide order

dated 25.01.2019 and relieved vide order dated 01.02.2019.

He filed this O.A against these two orders.

2. The applicant stated that he has been transferred because he reached late at the training centre, even while others were retained. The applicant has challenged the transfer order on grounds (i) of his daughter's illness. (ii) and retention of four officers in Delhi longer than him. He has sought the following reliefs:-

"(i) Quash/set aside the Office Order F. No. A-32020/16/2018-E.II dated 25.1.2019 and the Memorandum F. No. A-32020/16/2018-E.II dated 1.2.2019 as the same are illegal, unreasonable, arbitrary and the result of mala fide intention of the respondents to cause harassment to the applicant.

Or Alternatively

(ii) Direct the respondents to transfer the applicant to Lucknow or Kanpur or Bhopal or Patiala or any other Hindi speaking cities where the vacancies for the post of Airworthiness Officer is available preferably to Lucknow or Kanpur which is near to the home town of the applicant and he will be in a position to look after his family members particularly his 4 years old daughter namely Jyoti Yadav who unfortunately lost her mother at the age of 10 months only and always remains ill.

(iii) Or Pass such other orders or direction in the interest of justice."

3. Heard learned counsel for applicant Shri Mananjay Kumar Mishra.

4. The applicant has been transferred to Bangalore where all medical facilities are available. Bangalore by any stretch of imagination cannot be treated as a hard

posting. Further, no Government employee can claim any posting, as a matter of right. It has been held successively by the Hon'ble Apex Court in various judgments that transfer is an incident of service. The Hon'ble Supreme Court in **Uttar Pradesh Vs. Gobardhan Lal**, 2004 (11) SCC 402 and **Rajendra Singh Vs. State of Uttar Pradesh**, 2010 (1) SCC (L&S) 503, has held that a Government servant has no vested right to remain posted at a place of choice and he can be transferred wherever the appropriate authority decides in public interest. The relevant portion reads as under :-

“A Government servant has no vested right to remain posted at a place of his choice nor can 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.”

In **State Bank of India Vs. Anjan Sanyal & Ors.** (2001) 5 SCC 508 and **National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and another** (2001) 8 SCC 574, it is held that limited scope exists for interference with transfer orders. Ruling of **Shilpi Bose and Ors. Vs. State of Bihar & Ors** has also provided the following :-

“A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer Orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or Orders, the Courts ordinarily should not interfere with the Order instead 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. The High Court over looked these aspects in interfering with the transfer Orders.”

5. The O.A has no merits and is dismissed at the admission stage itself. No order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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