

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/809/2017

Date of Order: 07.06.2019

Between:

Mahesh Kumar Jadhav, S/o. Laxmanarao Jadhav,
Aged about 47 years, Occ: Assistant Engineer (QA),
O/o. Senior Quality Assurance Establishment (A),
Yeddumailaram, Medak, Sangareddy District.

... Applicant

And

1. Union of India, rep. by Secretary,
Ministry of Defence, New Delhi.
2. The Director General Quality Assurance,
Directorate of Quality Assurance (Armts),
Department of Defence Production,
Nirman Bhavan PO, New Delhi – 110 011.
3. The Additional Director General Quality Assurance,
Directorate of Quality Assurance (Armts),
Department of Defence Production (DGQA/DQA(A)/Adm-1),
DHQ PO, Ministry of Defence, New Delhi – 110 011.
4. The Senior Quality Assurance Officer,
Senior Quality Assurance Establishment (Armts),
Yeddumailaram-502205, Sangareddy District.

... Respondents

Counsel for the Applicant ... Dr. A. Raghu Kumar

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC

CORAM:

Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The applicant was appointed as Chargeman Grade-II in the year 1998 and was posted in the office of Senior Quality Assurance Establishment (Armts.), Yeddumailaram, Medak District. In the year 2005, he was promoted as Chargeman Grade I and transferred to Pune, but four years thereafter, he was transferred back to Yeddumailaram on his request. Through an order dated 14.07.2017, he was transferred to a station at Dehradun and the same is challenged in this OA.

2. The applicant contends that he is a physically handicapped person and according to the policy resolution contained in DOPT OM dated 31.03.2014, he is entitled to be retained at the same station and to be excluded from the purview of the rotational transfers. Other grounds are also pleaded.

3. The respondents filed a counter opposing the OA. It is stated that out of his 20 years service, the applicant was at Yeddumailaram for 16 years and he became ripe for transfer. It is also stated that the physical disability of the applicant is only to the extent of 45% in one leg and that his appointment is not under that category. It is also stated that, as part of rotational transfer, the applicant was shifted to Dehradun, since his stay at Yeddumailaram is from 2009 onwards.

4. We heard Mr. B. Pavan Kumar, learned proxy counsel representing Dr. A. Raghu Kumar, learned counsel for the applicant and Mrs. K. Rajitha, learned Senior Central Government Standing Counsel for the respondents.

5. The main plea raised by the applicant is that he is a physically handicapped person and according to the DOPT OM dt. 31.03.2014, he is entitled to be retained.

6. Basically, the applicant was not appointed under Physically Handicapped category. In the counter affidavit, it is stated that the physical disability of the applicant is only to the extent of 45% in one leg. The relevant provision of the policy, vide DOPT OM dated 31.03.2014, relied upon by the applicant, reads as under:

“H. Preference in transfer/posting

As far as possible, the persons with disabilities may be exempted from the rotational transfer policy/ transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/ promotion may be given to the persons with disability subject to the administrative constraints.

The practice of considering choice of place of posting in case of persons with disabilities may be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilised.”

From the above, it is clear that it is purely directory in nature and that too, to be considered “as far as possible” and “subject to the

administrative constraints”. The applicant holds a post of special category and a person of his cadre is needed at Dehradun, where the vacancy exists.

7. In view of the above, we do not find any basis to interfere with the impugned order of transfer. We, therefore, dismiss the OA. The applicant is granted four weeks time to report at Dehradun. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 7th day of June, 2019

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