

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No. 290/00076/2019
With Misc. Application No. 290/00133/2019

RESERVED ON : 19.09.2019
PRONOUNCED ON: 27.09.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Bhuvnesh Verma s/o Shri S.K.Verma, aged 45 years, R/o 17-E-56, Chopasani Housing Board, Jodhpur (Working as Senior Clerk, Central Arid Zone Research Institute, Jodhpur)

...Applicant

By Advocate: Shri Rakesh Arora)

Versus

1. Indian Council of Agricultural Research Through Secretary, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi-110001.
2. The Director, ICAR-Central Arid Zone Research Institute, Jodhpur.
3. The Chief Administrative Officer, ICAR- Central Arid Zone Research Institute, Jodhpur

...Respondents

By Advocate: Shri Ashok Chhangani assisted by Shri Chaturbhuj)

ORDER

Per Mrs. Hina P.Shah

By filing the present OA u/s 19 of the Administrative Tribunals Act, 1985, the applicant prays for quashing and

setting aside the transfer order dated 12.3.2019 (Ann.A/1) whereby he has been transferred from Jodhpur to Regional Research Station, Leh-Ladakh in public interest and to allow him to work at Jodhpur.

2. The applicant is working as Senior Clerk. Vide order dated 11.9.2018 the applicant has been transferred from Administration III (Bills), Central Arid Zone Research Institute (CAZRI) to Krishi Vigyan Kendra, Jodhpur for the reason that the department has noted some irregularities and mistakes in the working of the applicant. After about six months, he has been transferred from Krishi Vigyan Kendra to Regional Research Station, Leh-Ladakh vide order dated 12.3.2019 (Ann.A/1) and was relieved with immediate effect. However, the applicant has not yet joined. The applicant has stated that he was served a notice dated 21.2.2019 (Ann.A/3) to submit reply against the charge alleged to have been committed. The applicant submitted representation on 5.3.2019 (Ann.A/4). He also submitted representation on 14.3.2019 against transfer order dated 12.3.2019, but the respondents have not accepted his request for cancellation of his transfer and informed him vide letter dated 16.3.2019 (Ann.A/6). The applicant has further averred that he is not liable to be

transferred as per letter dated 15.1.2002 whereby it is informed that Group-C and D employees should not be subjected to intra-institutional transfer as an alternative to the disciplinary action. Therefore, transfer of the applicant was not warranted because the respondent department has already initiated disciplinary action against the applicant by issuing notice dated 21.2.2019. The applicant is low paid employee and his entire family is settled in Jodhpur. Therefore, aggrieved by the action of the respondents, the applicant has filed the present OA.

3. By way of reply, the respondents have stated that the applicant has deliberately misrepresented that his transfer is made due to the complaints/irregularities noticed against him. The matter regarding examination of complaints against him is altogether different matter, which has no connection with the transfer of the applicant. The Ann.A/2 transfer order dated 11.9.2018 is not a transfer but an internal shifting of the applicant from one department to another. The applicant has submitted representation dated 14.3.2019, and the same has been rejected vide order 16.3.2019, which has not been challenged by the applicant. The respondents have submitted that administrative orders, circulars, instructions are only advisory in nature, which are

required to be complied with as far as possible, but the overriding consideration is public interest/administrative exigency. In order to strengthen the Regional Research Station, Leh, the applicant had to be transferred for smooth functioning of that cadre strength. On the basis of recommendations of the Transfer Committee, the applicant has been posted in administrative exigency/public interest. Since his appointment on 15.7.1998, the applicant has been transferred for the first time to Regional Research Station, Leh vide impugned order dated 12.3.2019. The respondents have quoted condition No.5 of his appointment order, which provides that his Headquarter will be at Jodhpur but he will be liable to serve in any institute/and or office working under the ICAR located anywhere in India. The applicant has not joined pursuant to the transfer order dated 12.3.2019, which is an act of indiscipline and reflects the conduct of unbecoming of a Government servant. The applicant has also not applied for any leave. While denying the other averments made by the applicant, the respondents have justified their action in transferring the applicant to Regional Research Institute, Leh-Ladakh.

4. The applicant has filed rejoinder and thereafter the respondents have also filed reply to the rejoinder.

5. We have heard the learned counsel for the parties and perused the material available on record.

6. From perusal of the pleadings, it reveals that the applicant has represented the respondent authorities raising his grievance with regard to his transfer to Regional Research Institute, Leh vide impugned order dated 12.3.2019 (Ann.A/1). In his representation dated 14.3.2019 he has stated that his transfer is made against the transfer policy of the ICAR and also referred general instructions/guidelines for intra-institutional transfer for ICAR administrative staff. The said representation of the applicant though considered and decided by the respondents vide letter dated 16.3.2019 (Ann.A/6), but we are of the view that the decision of the authority is not by way of a reasoned and speaking order. Therefore, in the interest of justice, without going into merit of the case, we deem it just and proper to direct the competent authority in the respondent Department to reconsider the representation of the applicant and pass a reasoned and speaking order in this regard. Ordered accordingly. Till the representation of the applicant is reconsidered and decided again, the status quo be maintained with regard to his transfer. While deciding representation of the applicant, the

respondents shall also take into consideration the grounds raised by the applicant in this OA.

7. The OA stands disposed of in above terms with no order as to costs.

8. In view of the order passed in the OA, no order is required to be passed in MA No. 290/00133/2019, which shall stand disposed of accordingly.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/