

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2146/2003

New Delhi, this the 5th day of September, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

Sh. D.K.Bhasin
Senior Civilian Staff Officer (S)
Central Ordnance Depot
Post Box No.20
Jabalpur (M.P.) - 482 001.

...Applicant

(By Advocate Sh. B.S.Mainee)

V E R S U S

Union of India through

1. The Secretary
Ministry of Defence
North Block, New Delhi.

2. The Director General of Ordnance Service,
Master General of Ordnance Branch
Army Headquarters
DHQ PO, New Delhi,

...Respondents

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

Heard Sh. B.S.Mainee, learned counsel for the applicant.

2. Applicant is aggrieved by the action and impugned orders issued by the respondents transferring him on promotion from Army Headquarters, Delhi to C.O.D., Jabalpur vide order dated 9-9-2002. He had made a representation against this transfer which had been rejected by the respondents by letter dated 1-10-2002 and he was asked to report to C.O.D., Jabalpur. He had again made a representation on 29-12-2002 to the higher officer which has also been rejected by the respondents vide their letter dated 2-1-2003. Sh. B.S.Mainee, learned counsel has been heard at some length. He has submitted that although the applicant has carried out the illegal orders issued by the

respondents by moving to C.O.D., Jabalpur, there is no reason why the respondents should not have passed a reasoned order, dealing with each of the issues raised by him in the representation and more particularly, on the grounds of discrimination and violation of paragraph 3 of the transfer policy issued by the respondents dated 22-4-94 and non-consideration of the peculiar circumstances he had mentioned in his representations, for being recalled at the earliest back to Delhi from C.O.D., Jabalpur. Learned counsel has very vehemently submitted that when other Civilian Staff Officers (CSOs) who have remained in Delhi for more than six years on tenure posting have been retained in the same post at the same place of posting i.e. Delhi, there is no reason whatsoever to pick out the applicant for promotion-cum-posting to C.O.D., Jabalpur. He has, therefore, submitted that the transfer order issued by the respondents against the applicant was nothing but discriminatory.

3. It is seen from the letter issued by the respondents on 31-1-2003 (Annexure A-3A) that the applicant has been informed that DG OS has ~~best~~ sympathetically considered his request for retention in Delhi. However, no change was feasible at that stage. The applicant contends that as he has also obediently carried out the transfer order to C.O.D., Jabalpur, the respondents ought to have passed a reasoned and speaking order while finally rejecting his request for posting back at Delhi and the order dated 2-1-2003 is to this extent arbitrary. The relevant para of order dated 2-1-2003 reads as follows :-

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" The matter regarding your transfer back to Delhi has been examined most sympathetically by the DG OS. However, due to various administrative constraints it is not feasible to post you to Delhi where you have spent five years and moved to OOD Jabalpur on promotion less than three years before.

4. In view of the above, the respondents are directed to give the reasons to show that they have considered the applicant's letter dated 20-12-2002 in terms of transfer policy dated 22-4-94. This shall be done within one month from the date of receipt of a copy of this order with intimation to the applicant.

5. OA is disposed of as above.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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