



Government of Jammu and Kashmir  
Public Works (R&B) Department  
(HRM - Section)  
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Subject: O.A No.62/428/2020 titled Fareed Ahmad Choudhary V/s Union Territory of Jammu & Kashmir & Ors.

Government Order No. 253 PW(R&B) of 2020

D a t e d: 07-09-2020

Whereas, Sh Fareed Ahmed Choudhary is working as I/C Chief Engineer (Mechanical) and has been transferred to the UT of Ladakh vide Government Order No 206-PW(R&B) of 2020 dated 22.07.2020 and he holds a transferable post. The transfer is an exigency of service and also an administrative decision.

Whereas, he has filed a representation in the Department on 27.07.2020 stating therein that he has health related problems and it is extreme difficult to follow a regular medical check-up at Ladakh. He further stated that general policy (copy not provided) of government for posting the junior most officers in the hierarchy to Ladakh has not been taken into account, besides also stated that there is one post of Chief Engineer, (Mech) lying vacant by the name and style of Director Stores Procurement J&K Jammu against which he can be considered for posting on medical grounds.

Whereas, Sh.Fareed Ahmad Choudhary challenged the government order No.206-PW(R&B) of 2020 dated 22.07.2020 in the Central Administrative Tribunal, Jammu under O.A No.62/428/2020;

Whereas, the Central Administrative Tribunal, Jammu Bench, Jammu in O.A No.62/428/2020 titled Fareed Ahmed Choudhary V/s UT of J&K & Ors in its order dated 14.08.2020 has directed that:-

***"this OA is disposed of at admission stage itself with direction to the respondents to consider the pending representation of the applicant dated 27.07.2020 as per provisions of relevant service rules and government instructions and decide it with a well reasoned and speaking order within two weeks from the date of receipt of a copy of this order."***

Whereas, he has represented that his transfer is in violation of government orders mentioned in the application regarding transfer. These government orders referred to in the application are mere guidelines and have no statutory force. Orders of transfer issued by the employer in the exigencies/ interest of Administration will not amount to violation of these orders.

Whereas, the department while issuing his transfer to Union Territory of Ladakh has in no way violated the J&K Reorganization Act, 2019. In fact his transfer to Ladakh has been made strictly in accordance with the said Act. Mere

relying on the fact that after exercising his option for UT of J&K, he cannot be posted to UT of Ladakh. Sub section 2 of Section 89 of J&K Reorganization Act, 2019 provides as under:-

"(2) As soon as may be after the appointed day, the Lieutenant Governor of J&K shall, by general or special order, determine the successor Union Territory to which every person referred to in sub-section (1) shall be finally allotted for service, after consideration of option received by seeking option from the employees, and the date with effect from which such allotment shall take effect or be deemed to have taken effect;

Provided that even after the allocation has been made, Lieutenant Governor of Union Territory of J&K may in order to meet any deficiency in the service, depute officer from one successor Union Territory to the other Union Territory."

Whereas, he represented that there is post of Chief Engineer under the name and style of "Director Stores Procurement Jammu" lying vacant against which he could have been/ be adjusted. Transfer of an employee is not only an incident of service but an essential condition of service and an employee has no right to ask/ claim for posting of his choice, therefore the contentions of the applicant are devoid of merit.

Whereas, it is entirely to the employer where and at what point of time a public servant is to be transferred in the administrative exigencies from one place to other being the best judge to decide the same. Because of this position the department has been transferring him from time to time, Engineers from Jammu/ Kashmir Divisions to Ladakh Division who were senior in age to him, like Mr.R.L.Angurana who was transferred and posted as I/C Chief Engineer at Leh at the age of 59 years and the said Engineer retired on 31<sup>st</sup> May 2020.

Whereas, Sh.Fareed Ahmed Choudhary in his representation has enclosed the various clinical test reports analysis of which reveals as under:-

- a). Pulse count= 70 b/m, blood pressure= 130/90 and Hb=13 (all normal)
- b). Report of department of Pathology= No omental tissue was seen.
- c). (i) Report of Qadir haematology Centre & clinical laboratory

Haematology	Test report	Normal limit
RBC count	4.45	4.00—6.00
Total WBC Count	5.62	4.00—11.00
Platelet count	178	130—440
(ii) <u>Lipid Profile</u>		
Total Lipids	584	350—750
(iii) <u>Kidney function</u>		
No specific abnormality noted by the specialist.		
(iv) <u>Liver function</u>		
No specific abnormality noted by the specialist.		

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Therefore, in view of above detailed circumstances and legal position, the representation of petitioner dated 27.07.2020 is devoid of merit to alter his transfer to Union Territory of Ladakh.

By order of the Government of Jammu & Kashmir.

Sd/-  
(Shailendra Kumar) IAS  
Principal Secretary to the Government

No.PW(R&B)/ Legal/ 69/ 2020

Dated: 07.09.2020

Copy to the:-

1. Principal Secretary to Hon'ble Lieutenant Governor, Union Territory of Ladakh.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Commissioner/ Secretary to Government, General Admn. Department, Srinagar
4. Commissioner/ Secretary to Government, PW(R&B) Department, Union Territory of Ladakh, Leh.
5. Director, Archaeology & Archives, J&K.
6. Development Commissioner Works, PW(R&B) Department.
7. All Chief Engineers (Civil).
8. OSD to Hon'ble Advisor (B).
9. Concerned officer.
10. Private Secretary to the Chief Secretary, J&K Srinagar.
11. Private Secretary to the Chief Secretary, Union Territory of Ladakh.
12. Private Secretary to the Principal Secretary to Government, PW(R&B) Department
13. Government Order file/ Stock file.
14. Monday return file w.2.s.c
15. I/C Website, PW(R&B) Department

(Shahid Mehmood) KAS  
Deputy Secretary to Government  
Public Works (R&B) Department