

(2021) 03 CAT CK 0152
In the Central Administrative Tribunal
Case No : Original Application No. 930 Of 2020

Alka Arora, Assistant (A.D.), Group 'B' & Others	APPELLANT
Vs	
Union Of India & Others	RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0152

Hon'ble Judges : R.N. Singh, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : M.K. Bhardwaj, Satish Kumar

Final Decision : Disposed Of

Judgement

R.N. Singh, Member (A)

1. In the present OA, the applicants, three in numbers, who have been working as Assistant (Architecture Department) under the respondents have approached this Tribunal to challenge their transfer from Delhi to Chandigarh vide order dated 05.03.2020 (Annexure A-1) and order dated 28.04.2020 (Annexure A-2).

2. The applicants have prayed for the following reliefs:-

"(a) To quash and set aside the impugned orders dated 05.03.2020 & 28.04.2020 qua applicants and direct the respondents to allow the applicants to continue in Delhi.

(b) To declare the action of respondents in transferring the applicants from Delhi to Chandigarh as illegal and direct the respondents to allow the applicants to continue at the present place of posting.

(c) To allow the OA with costs.

(d) Pass such other direction or directions order or orders as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice."

3. Pursuant to the notice from this Tribunal, the respondents have filed their counter reply and have opposed the OA. The applicants have also filed rejoinder.

4. In the counter reply, in para 4.7, specifically, it is asserted by the respondents that the applicants were not transferred, all of a sudden, but in view of the fact that a revised Organizational Structure of Central Public Work Department was issued by Directorate, C.P.W.D. vide O.M. dated 25.03.2019 No. DG/CAD/391 (Annexure R-3) after the approval conveyed by the concerned Ministry i.e. Ministry of Housing and Urban Affairs and the sanctioned strength of various categories was issued by competent authority. In view of the revised organizational structure, it was found necessary by the competent authority to issue transfer/posting/mapping orders of all staff, including the cadre of the applicants and accordingly transfer/ impugned orders were issued vide impugned orders dated 05.03.2020 & 28.04.2020.

5. It is further stated therein that Regional Coordination unit of Northern Region has been shifted from New Delhi to Chandigarh and the Competent Authority vide OM dated 26.11.2019, (Annexure R-5) conveyed the decision of the Competent Authority that transfer and posting of all Group 'B' and 'C' officers within the region, shall hence forth be undertaken by respective Regional coordination Unit.

6. The representations of the applicants were also received and considered by the Competent Authority, however, on account of the restructuring and the requirement of officials as per new structure, the representations were not found agreeable.

7. The respondents have also asserted that there is reduction in sanctioned strength of Assistant A.D. in Delhi from 71 Nos. to 50 Nos. Learned counsel for the respondents submits that the impugned transfer orders have been passed by the Competent Authority keeping in view the aforesaid administrative exigencies. He further submits that the said impugned orders are also admittedly not a result of any malafide, much less to say of proven malafide. He further adds that by the impugned orders, any of the service-conditions of the applicants has not been adversely affected and also the fact that the applicants are admittedly having all India transfers liability.

8. In this background, he submits that in view of the law settled in catena of cases by the Hon'ble Apex Court including in Mrs. Shilpi Bose And Others vs State Of Bihar And Others on 19 November, 1990 reported in AIR 1991 SC 532, 1991, the applicants have no cause to maintain the present OA.

9. Shri Satish Kumar, learned counsel for the respondents further submits that during pendency of the OA, the applicants were found eligible to be considered for promotion and accordingly, they were promoted to the post of Technical Officers. However, the offer of promotion has been declined by the applicants. In view of the subsequent developments of the applicants in the form of promotion to the applicants, the applicants were further required to join at the new place of

posting which they have not joined in view of the interim order passed by this Tribunal. Learned counsel for the respondents argues that the interim directions of the Ministry about not to post/transfer the applicants during the Covid period of April 2021, this ground is not available to the applicants in view of the fact that with passage of time situation has improved and also in view of the fact that office itself has been shifted from New Delhi to Chandigarh.

10. However, Shri Bhardwaj, learned counsel for the applicants submits that the applicants were promoted, however, they have refused the promotions and keeping in view the entire facts and circumstances, the respondents are required to consider the matter afresh about the applicants' posting. However, he admits that after subsequent developments, the applicants have not made any representations to the Competent Authority.

11. In view of the facts and circumstances, present OA is disposed of with liberty to the applicants to make comprehensive representations, if they so desire positively within a week from today. The respondents are directed to consider such representations, if received from the applicants within the time stipulated herein as expeditiously as possible and in any case within two weeks from the date of receipt of such representation(s) and to dispose of the same by passing a reasoned and speaking order thereon. Till then the respondents are directed to maintain status quo in respect of the posting of the applicants.

12. OA is disposed of in the aforesaid terms. However, in the facts and circumstance, there shall be no order as to costs. Pending MA also stands disposed of accordingly.