
(2020) 09 CAT CK 0001

In the Central Administrative Tribunal

Case No : Original Application No. 1230 Of 2020, Miscellaneous Application No. 1514 Of 2020

Amarjeet Singh Dagar

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Citation : (2020) 09 CAT CK 0001

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Tamali Wad, R.K. Jain

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was working as Section Officer (Horticulture) (SO (H)) in the CPWD. On 18.03.2019, he was transferred to Guwahati. While working at that place, he was promoted to the post of Assistant Director (Horticulture) (AD (H)) and was transferred to Shillong. He is said to have made a representation to the Commissioner for Persons with Disabilities, stating that he is suffering from hearing disability to the extent of 64% and that his transfer to Shillong is contrary to various policy decisions, it appears that the Commissioner issued some directions. The administration posted him to Delhi, through order dated 04.03.2020.

2. On 09.04.2020, the respondents transferred the applicant to Jaipur, in public interest. He initially approached the Hon'ble High Court of Delhi by filing W.P. (C) No.3011/2020, stating that the Tribunal stopped functioning due to Covid-19. The Hon'ble High Court disposed of the said writ petition on 28.04.2020, directing the respondents to maintain status quo and requiring the applicant to approach the Tribunal within one week from the date on which the Delhi Administration lifts the lockdown. This O.A. is filed now, challenging the order

dated 09.04.2020, through which he was transferred to Jaipur.

3. The applicant contends that he is a physically disabled person and the same was certified by Dr. R M L Hospital, Delhi in the year 2017. He contends that some ADs (H) are working in Delhi for the past several years and even while retaining them at Delhi, he was chosen for transfer to Jaipur. Another contention is that due to the present Covid-19 situation, a policy decision is taken to put on hold, the transfers, and in violation thereof, he has been transferred. It is also mentioned that according to the policy guidelines, framed by the CPWD and DoP&T, the minimum tenure of stay of an officer is three years at a station. Certain other grounds are also urged.

4. We heard Ms. Tamali Wad, learned counsel for applicant and Mr. R K Jain, learned counsel for respondents, through video conferencing.

5. The applicant was transferred from Delhi to Guwahati in the year 2018, when he was working as SO (H). It is there, that he was promoted as AD (H) and was transferred to Shillong. The circumstances, under which the applicant came to be transferred from Shillong to Delhi, are not immediately before us. The order itself says that the transfer of the applicant is without any entitlement as to TA/DA and it appears to be with a tentative measure.

6. Be that as it may, the applicant was transferred to Jaipur through an order dated 09.04.2020, in public interest. It is fairly well settled that interference with the orders of transfer itself is on limited grounds, and the scope of interference gets further narrowed down in case it is on administrative grounds or in public interest.

7. The first ground urged by the applicant is that he is the physically handicapped person. The handicap is not the one, which he possessed at the time of joining the service. It appears that he developed hearing impairment some time in the year 2017, and it is certified by Dr. R M L Hospital, Delhi to the extent of 64%. Except that the applicant is pleading that ground in the context of transfer to Jaipur, he is not pointing as to how it impairs his functioning or that it would get aggravated, if he is required to work at Jaipur.

8. Another aspect is that though he was certified in the year 2017 itself, he did not take any plea when he was transferred to Guwahati in the year 2018 as SO (H). This ground seems to have been pressed into service only after he was promoted to the post of AD (H). The guidelines framed in this behalf are to the effect that persons with disabilities should not be moved in the course of routine transfer, "to the extent possible". In the instant case, it is not a routine transfer and in the one in "public interest".

9. Another plea put forward by the learned counsel for the applicant is that the CPWD as well as DoP&T have evolved a policy to protect the interest of the disabled persons for the same reason, which we mentioned above. At any rate, the policy is only to the effect that the protection shall be extended to the extent

possible and it is not an absolute bar against the transfers, particularly when it was in public interest.

10. The grounds referable to the Covid-19 situation are time specific. Even while taking precautions in this Covid-19 situation, the transfers are effected, duly protecting the interest of the employees. Certain procedures are stipulated as regards their movement as well as functioning. When several employees are transferred and transfers are being effected, the applicant cannot stand alone.

11. It is also pleaded that the wife of the applicant is working as Teacher at Delhi and it would be difficult for him to work at Jaipur. Here again, the Government has its own guidelines to ensure that the spouses are enable to work at same place to the extent possible. The accommodation in this regard depends on several factors. It would also depend upon the total stay of the applicant at Delhi, so far. The applicant can make a representation in this behalf after joining at Jaipur in this behalf. The post to AD (H) is fairly higher in the administration and ordinary parameters cannot be applied to it. The work cannot be permitted to suffer.

12. We do not find any merit in this O.A and the same is accordingly dismissed. However, we direct that in case the applicant makes a representation to the respondents after joining at Jaipur, the respondents shall consider the same and pass orders thereon within a period of four weeks thereafter. There shall be no order as to costs.