
(2019) 11 DEL CK 0527
In the Delhi High Court
Case No : Civil Writ Petition No. 30 Of 2019

Bhavesh Motiani

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 20-11-2019

Acts Referred:

Administrative Tribunals Act, 1985 — Section 25

Citation : (2019) 11 DEL CK 0527

Hon'ble Judges : G.S.Sistani, J;Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : P.K. Sinha, Sushil Kumar, Anil Soni, Devesh Dubey

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

1. The present petition has been filed being aggrieved by order dated 30.11.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the 'Tribunal'), by which O.A. No.421/2018 pending before the Ahmedabad Bench has been transferred to the Principal Bench of the Tribunal.

2. Learned counsel for the petitioner submits that the O.A. was filed before the Ahmedabad Bench, where the petitioner was posted at that time and which is also his usual city of residence. He submits that pleadings are complete and the matter is ready for arguments before the Ahmedabad Bench. He submits that the Principal Bench is already over-burdened with a large number of cases and the matter is likely to get delayed by reason of the transfer. Additionally, the petitioner states that he is now posted to the North-East and it would be highly inconvenient for the petitioner to travel to Delhi and substantial expenses would be incurred and time would be spent; and the petitioner will even have to take additional leave from work.

3. Mr. Soni, learned counsel for the respondents submits that the petitioner has been taking benefit of the interim order which was passed by the Ahmedabad

Bench. The matter has been adjourned from time-to-time and the respondents are keen that the matter is dealt with finally. Mr. Soni also submits that there is no infirmity in the order passed by the Tribunal, which would require interference by this Court.

4. We have heard learned counsel for the parties.

5. Section 25 of the Administrative Tribunals Act, 1985 reads as under:

"25. Power of Chairman to transfer cases from one Bench to another.-On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench."

6. The respondents had made an application for transfer before the Principal Bench at New Delhi. The grounds on which transfer was sought were that 19 officers were transferred by a common order; and if 19 officers were to file OAs in places of their transfer, it would lead to multiplicity of proceedings and hardship for the respondents. This ground was considered favourably by the Tribunal. The second ground which found favour with the Tribunal while allowing the transfer petition was that the contesting respondents are situated in Delhi; and hence the OA was transferred to Delhi.

7. As far as the first ground is concerned, which was accepted by the Tribunal, admittedly the order of transfer of the 18 other officers was passed as far back as on 26.07.2018; and no other officer(s) has filed a proceeding challenging the transfer petition. In these circumstances, the decision of the petitioner's prayer in these proceedings cannot depend upon such other officers, who may have accepted the transfer order or have not had reason to impugn the same. Besides, such other officers may not have any ground to challenge the transfer orders, while the petitioner has had such ground.

8. The second ground which is relied upon by the Tribunal is that the respondents are situated in New Delhi; and if each officer files an OA before the Bench in whose jurisdiction the concerned officer resides, it would lead to several complications. Insofar as the matter of the respondents being situated in Delhi is concerned, being the Government, with presence all over the country this ground cannot be the basis to reject the petitioner's challenge if the grounds raised by the petitioner appear to be valid.

9. Learned counsel for the petitioner submits that the counter affidavit has been filed and the pleadings are complete before the Ahmedabad Bench and it would cause avoidable inconvenience to the petitioner, if the matter is transferred to Delhi. It is further submitted that the matter is ripe for final hearing before the Ahmedabad Bench, which hearing may have to be re-scheduled on transfer to the Principal Bench, New Delhi which would again delay the matter.

10. Upon a conspectus of all the facts and circumstances of the case, we find

force in the submissions made by the learned counsel for the petitioner. Accordingly, we set aside order dated 30.11.2018 passed by the Tribunal. Learned counsel for the petitioner has also given an assurance to this Court that no adjournment will be sought by the petitioner before the Ahmedabad Bench.

11. We request the Tribunal at Ahmedabad to fix an early date and decide the matter expeditiously.

12. With the above directions, the writ petition stands disposed of.

13. A copy of the order will be brought to the notice of the Tribunal at Delhi and Ahmedabad.

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14. The application is disposed of in view of the order passed in the present writ petition.