

(2018) 01 CAT CK 0070

In the Central Administrative Tribunal

Case No : Original Application No. 3016 Of 2017

Charanjeet Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 05-01-2018

Acts Referred:

Citation : (2018) 01 CAT CK 0070

Hon'ble Judges : V. Ajay Kumar, Member (J); Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : Sachin Chauhan, Hanu Bhaskar

Final Decision : Dismissed

Judgement

V. Ajay Kumar, Member, J

1. The applicant, a Research Assistant in the National Centre for Disease Control (NCDC) under the Directorate General of Health Services and working at Delhi, filed the OA questioning the action of the respondents in transferring him to NCDC, Patna Branch on various grounds.

2. The brief facts, as narrated by the applicant in his Original Application are that he was initially appointed as Lab. Assistant in the year 1989 and thereafter was promoted as Technician in 1998 and again was promoted as Research Assistant in the year 2013. Since the date of his appointment in the year 1989 to till date, i.e. for the last about 28 years, the applicant has been working at Delhi in various capacities, i.e., even on getting promotions also.

3. The respondents, vide the impugned Annexure A-2 dated 4.8.2017 transferred the applicant from Delhi to Patna, in public interest, for a period of one year, and the applicant was relieved of his duties at NCDC Delhi on 04.08.2017 AM. It was stated in the said transfer order that the transfer was made, "due to acute shortage of staff at NCDC Patna Branch". Further, the respondents vide Annexure A-1 dated 17.8.2017 while accepting the request of the applicant dated

08.08.2017, extended his relieving date till 08.09.2017. However, the applicant vide Annexure A-3 representation dated 28.08.2017 requested the respondents to cancel the transfer order for the reasons mentioned therein. Thereafter, filed the instant OA and on 01.09.2017, this Tribunal while issuing notices to the respondents, observed that the joining of the applicant at the new place of posting shall be without prejudice to his rights. Accordingly, the applicant joined at Patna on 20.09.2017.

4. Heard Shri Sachin Chauhan, learned counsel for the applicant, Shri Hanu Bhaskar, learned counsel appearing on behalf of the respondents and perused the pleadings on record.

5. Shri Sachin Chauhan, learned counsel appearing for the applicant while not disputing that the applicant had been working at Delhi all through of his service, i.e., for the last about 28 years continuously, however, submits that the transfer order is vitiated by mala fides and being made for wrong reasons. Firstly, it is submitted that the reason mentioned for his transfer from Delhi to Patna was "acute shortage of staff at NCDC Patna" but the same was a camouflage to accommodate the 4th respondent who was working at Patna and who was transferred to Delhi in place of the applicant. It is further submitted that Shri J.P. Nadda, Hon'ble Cabinet Minister for MOH&FW and Shri Faggan Singh Kulaste, Minister of State of MOH&FW have written letters requesting the respondents 1 to 3 to transfer the 4th respondent to NCDC Delhi or NCDC, Alwar from NCDC, Patna. The learned counsel for the applicant drawn our attention to the various Annexures to the OA, which were obtained by the applicant under the provisions of the RTI Act, 2005, to show that the impugned transfer of the applicant was only to accommodate the 4th respondent, in view of the pressure from the VIPs but not due to any valid reasons or public interest or due to shortage of staff at NCDC, Patna.

6. Shri Hanu Bhaskar, learned counsel appearing for respondents No.1 to 3 while not disputing the fact that the above referred VIPs have requested to accommodate the 4th respondent at Delhi or at Alwar, in view of his difficulties, however, would submit that the applicant who had been working at Delhi for the last about 28 years continuously, cannot have any objection for his transfer to Patna. The learned counsel further submits that the official respondents have kept in mind about the difficulties of the applicant also while transferring him to Patna and that is why they have specifically mentioned in the impugned transfer order dated 4.8.2017 itself that the same was for a period of one year. The learned counsel further submits that just because an Hon'ble Minister who is a peoples representative, keeping in view the difficulties of a particular employee, requests for consideration of his case cannot vitiate the transfer of another employee, as long as the same is not in violation of any rule or provision or with any mala fide intention. Since the applicant failed to show any such violation or mala fides, the impugned transfer cannot be interfered with.

7. It is not in dispute that at NCDC, Patna, the 4th respondent alone was working

against 2 sanctioned posts and if the 4th respondent is to be accommodated at Delhi or elsewhere, if his personal difficulties are to be considered, somebody from Delhi or elsewhere is to be transferred to Patna otherwise the NCDC, Patna would be left with no Research Assistant. Hence, it cannot be said that the reason of shortage of staff at NCDC, Patna is wholly incorrect.

8. Further, as rightly submitted by the learned counsel for the respondents that if a transfer order is not in violation of any rule or provision of law or with mala fide intention, the same cannot be interfered only on the ground that there was some reference by a peoples representative. The applicant failed to show that his transfer is in violation of any statutory provision or due to the mala fide action of any person. On the other hand, the applicant having continued at Delhi for the last about 28 years, cannot have any objection for his transfer to Patna, that too for a period of only one year.

9. In the circumstances and for the aforesaid reasons, we do not find any merit and the OA is accordingly dismissed. However, this order shall not preclude the applicant from making an appropriate representation, after completion of one year at Patna, if he so desires and in such an event, the respondents shall consider the same in accordance with rules. No costs.