

(2020) 07 CAT CK 0025

In the Central Administrative Tribunal

Case No : Original Application No. 100, 824 Of 2020

Darshana

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Citation : (2020) 07 CAT CK 0025

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

Bench : Division Bench

Advocate : A.K. Behra, Yogesh Kumar Mahur, Harkesh Parashar, Anil Singh

Final Decision : Dismissed

Judgement

L Narasimha Reddy, J

1. The applicant joined the Indian Navy as a Translation Officer (Russian/English), a post of Group -B on 15.02.2001. In the year 2005, she was sent on deputation to Russia for a period of two years and she returned in the year 2007. Ever since, she is working in the office at Delhi. Through an order dated 12.03.2020, six officers of the Navy were transferred to various places and the name of the applicant figured therein. She was transferred to the Headquarters of the Eastern Naval Command i.e. Visakhapatnam. The applicant submitted a representation dated 20.03.2020 to the concerned authority with a request to recall the order of transfer in so far as it pertains to her. Various grounds were mentioned therein. A reply was given on 04.06.2020 stating that the grounds raised by the applicant were considered and no merit was found therein. This OA is filed challenging the order of transfer and the order of rejection of the representation.

2. The applicant contends that her presence in Delhi is essential, particularly, in view of the health condition of her parents. It is also stated that a complaint was submitted by her on 30.01.2020 alleging acts of harassment against the two senior officers of the Navy arrayed as Respondents 4 and 5 and despite that the

order of transfer was made. Several other grounds were also urged.

3. On behalf of Respondents 1 to 3 counter affidavit is filed. It is stated that the transfer of the applicant was mooted in the year 2019 itself and on her request, it was deferred at that time. It is also stated that the applicant gave an undertaking that she would move to Visakhapatnam in the year 2020. As regards the complaint dated 30.01.2020 submitted by the applicant, respondents state that the two Committees with senior officers were constituted and in one of them reported that the allegations made by the applicant were found to be not proved. The report of the other committees said to be awaited.

4. We heard Mr.A.K.Behera, learned senior counsel for the applicant, Mr.Mr.Anil Singh, learned counsel for the respondents. Mr.Manas Chakravarty - Respondent No.4 and Captain Piyush Badoni - Respondent No.4 are present through Video Conference.

5. The circumstances under which the Tribunal can interfere with an order of transfer are fairly narrow. It is only when the transfer is found to be vindictive in nature, opposed to the settled policy or the one made by an authority not vested with the power, that the possibility to interfere with, would exist. The arbitrariness of an order of transfer can also be discerned from the frequent and indiscriminate transfer of an employee subjecting him / her to inconvenience and harassment.

6. In the instant case, ever since of her appointment in the year 2001, the applicant worked in Delhi except for a period of two years, during which she was on deputation to Russia. The applicant is in a fairly senior position and she is required to work at important places like the Headquarters of Eastern Naval Command, Visakhapatnam, so that the subsequent recruitees can get the benefit of her experience. The facilities at Visakhapatnam are in no way inferior to those that are available in Delhi, be it from the point of view the medical treatment or other comforts to an officer. The respondents have categorically stated that the transfer of the applicant was mooted in the year 2019 itself and on her request it was deferred till the impugned order was passed. Further the impugned order is not the one which is passed in the case of the applicant alone. A group of officers are transferred. Interference with one transfer would have its own cascading effects upon the other transfers.

7. In the OA as well as in the course of arguments much emphasis was laid on the complaint dated 30.01.2020. It is pleaded that the applicant has alleged the acts of sexual harassment and since an enquiry is to that is pending, her transfer is totally unwarranted.

8. Firstly, in her representation dated 20.03.2020, which is filed as an Annexure, the applicant did not even make a remote reference to any acts of sexual harassment. The grounds pleaded by her are mostly administrative in nature and they have been taken into account by the respondents while disposing it of. Assuming that there is an allegation of sexual harassment in the representation

dated 30.01.2020 that has nothing to do with the transfer of the applicant which was on ten cards from May 2019 onwards. The purport of the judgements rendered by the Hon'ble Supreme Court is that if the allegations are found to be very serious and if there exists prima facie material, it would be a case for transferring the official who is alleged to have resorted to acts of sexual harassment at work place. The mere fact of the applicant is transferred to Visakhapatnam would in no way hinder the proceedings if any, initiated on the basis of the complaint of the applicant. We make it clear that in case her presence is needed at Delhi in connection with that case, it shall be the obligation of the respondents to arrange her travel to Delhi at their cost.

9. Whether one takes into account the length of time for which the applicant worked at Delhi or the importance of the Naval Headquarters to which the applicant is transferred, it is difficult to find any illegality in the order of transfer. On the other hand the transfer would benefit the junior officers who have been appointed in the recent past.

10. Mr.A.K.Behra, learned counsel for the applicant further submits that the shifting of the officers on the basis of the impugned order of transfer has not taken place, in view of the prevailing pandemic. If that is so, the applicant shall also be entitled to the same arrangement as extended to others.

11. We do not find any merit in the OA and accordingly, we dismiss the same, but with an observation that the respondents shall arrange her travel to Delhi in case it is needed in connection with the proceedings, if any, initiated on the complaint alleging acts of sexual harassment.

12. There shall be no order as to costs.