

(2023) 08 CAT CK 0019

In the Central Administrative Tribunal

Case No : Original Application No. 3431 Of 2019

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APPELLANT

Vs

Commissioner, SDMC Dr. SPM Civic Centre 4 th Floor, JL
Nehru/Minto Road New Delhi, 110002 & Ors

RESPONDENT

Date of Decision : 16-08-2023

Acts Referred:

Citation : (2023) 08 CAT CK 0019

Hon'ble Judges : Dr. Chhabilendra Roul, Member (A)

Bench : Single Bench

Advocate : Somnath Bhattacharya, Pradeep Tripathi, Anupama Bansal

Final Decision : Dismissed

Judgement

Dr. Chhabilendra Roul, Member (A)

1. The present OA has been filed by the applicant seeking deputation allowance from the respondents for the period from 13.08.2018 till the date of his transfer from Municipal Corporation of Delhi Primary School, Uttam Nagar to another Primary School under the same organization.

2. The brief facts of the case are that the applicant has joined as a Primary Teacher in MCD on 23.10.2001. On 13.08.2018, the applicant was transferred to Primary School, Uttam Nagar. The transfer order states as follows :-

"Shri Shridhar, Teacher SDMCPS Punjabi Bagh Road-66-II is hereby transferred to SDMCPS Uttam Nagar New No-2-II on diverted Capacity on deputation basis with immediate effect till further order."

2.1 The applicant was transferred out from Primary School Tehkhand Boys No.1-2 to Primary School B-2, Raghubir Nagar-I, West Zone, vide order dated 11.03.2022. The applicant submitted representations starting with 10.06.2019 and on 17.09.2019, the respondents, during the pendency of the OA, transferred the applicant to Primary School, Raghubir Nagar, West Zone.

2.2 In the present OA, the applicant has sought the following main relief(s) :-

"8(i) Direct the respondents to transfer the applicant to a school of his choice in terms of his request at the earliest.

(ii) Direct the respondents to pay 5% Deputation Allowance in terms of DoP&T OM dated 24.11.2017 since his transfer on deputation w.e.f. 13.08.2018 with all consequential benefits."

2.3 As the applicant has been transferred out of Uttam Nagar, the main grievance of the applicant has already been taken care of. As per his request dated 28.06.2019, the applicant has been transferred to Primary School Raghbir Nagar, which is one of his choice postings.

3. Notice was issued to the respondents on 9. 11.2022. Ms. Anupama Bansal, learned counsel appeared and accepted notice on behalf of the respondents.

4. The grounds of seeking the deputation allowance as per the DoP&T OM dated 24.11.2017 is that the transfer order dated 13.08.2018 states that the applicant was transferred to Primary School, Uttam Nagar on diverted capacity on deputation basis. The DoP&T OM dated 24.11.2017, particularly states that :-

"4.(a) In case of deputation within the same station the Deputation (Duty) Allowance will be payable at the rate of 5% of basic pay subject to a maximum of Rs.4500/- p.m."

5. In view of the transfer order and the DoP&T OM dated 24.11.2017, learned counsel for the applicant averred that the applicant is entitled to get 5% of his basic as deputation allowance with subject to maximum limit of Rs.4500/- per month.

6. Per contra, learned counsel for the respondents referred the counter affidavit filed by the respondents and stated that the present order dated 13.08.2018 is badly drafted and there are typographical errors. The applicant was transferred from one Primary School to another Primary School and under no stretch of imagination, it would be construed that he was sent on deputation to another Primary School within the same organization within the Municipal Corporation of Delhi. In view of this, learned counsel for the respondents averred that the applicant's transfer is just a transfer order. The order dated 13.08.2018, being a plain transfer the applicant is not entitled for any deputation allowance.

7. I have gone through the records of the case and have heard the arguments by both the counsels.

8. The substantive relief prayed by the applicant in the form of his request to get the transfer to a place of choice has already been complied with by the respondents. As regards the payment of deputation allowance, I agree with the contention of the learned counsel for the respondents that the posting of the applicant from Primary School Punjabi Bagh Road-66-II, New Delhi to Uttam Nagar, No. 2 School, New Delhi was not deputation as such. The respondents

have admitted that it was a typographical error that an order dated 13.08.2018 has mentioned that he is transferred on diverted capacity on deputation.

9. In view of this, the OA lacks merit and hence, is dismissed. No order as to costs.s