
(2018) 05 CAT CK 0094

In the Central Administrative Tribunal

Case No : Original Application No. 1677 Of 2018

Dilpreet Singh Nagi

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Citation : (2018) 05 CAT CK 0094

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

Bench : Division Bench

Advocate : Sachin Mittal, Gaurav Kumar, Sagar Kothari, RK Sharma, KK Sharma

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member(A)

1. This Original Application (OA) has been filed by the applicant claiming the following reliefs:-

"a) To pass an order to set aside the impugned Order dated 16.03.2018 insofar as it relates to the applicant and the applicant has been directed to be posted/ transferred to station at ORDAQA (HAL), Hyderabad.

b) To pass an order for posting/transfer of the applicant in terms of the Preferences mentioned by the applicant in Annexure 'C' and for posting/transfer of applicant at Head Quarters, New Delhi which was the first preference of the applicant.

c) To issue any other relief and further relief in the interest of justice which this Hon'ble Court may deem fit and proper in the light of above facts and circumstances."

2. The facts, in brief, are that on 25.06.2009, the applicant joined the office of Directorate General of Aeronautical Quality Assurance (DGAQA) under the Ministry of Defence, Govt. of India, as Junior Scientific Assistant Grade-1

(renamed as Scientific Assistant) at ALISDA, Bengaluru and served there for three and a half years. He was further posted to ORDAQA, Ghaziabad on 10.12.2012 as Scientific Assistant Group - B and now working as Senior Scientific Assistant (SSA) Group - B.

3. It is submitted that DGAQA issued a Policy dated 31.10.2016 for Deployment of Group 'A' and Group 'B' Officers in DGAQA Organizations. It is pertinent to mention here that as per clause 8(a) and (b) of this Policy of deployment, the officers were required to submit preferences of posting with minimum three stations choices and which was required to be considered by the Committee before passing any orders for transfer.

The relevant paras of the Policy read as under:-

"a)the concerned officers will require to submit preferences for their posting (minimum three station choices) through Head of their Field Estt./Unit within a period of one month. The list of officers due for posting/transfer under RTP along with the preferences from concerned officers, will be considered by the committee. The requests for choice posting by the officer posted at Hard Stations may be given preferences and efforts will be made to accommodate them accordingly.

b) In case more than one officer prefer same station for posting and adequate vacancies not being available to accommodate all of them, the officer coming from Hard Stations or retiring within a period of two years, if any, may be given preference and thereafter the officer having less tenure at the station where the posting is to be made, will be considered."

4. It is submitted that the Deputy Director Hr/P acting for DGAQA, issued a letter dated 15.11.2017 whereby the list of Group 'B' officers due for rotational transfer under RTP 2018-19 was published and the name of the applicant was mentioned at S.No.24 therein. Along with this letter, the Performa to be given by the officers was also enclosed. The concerned officer whose transfer was due for posting/transfer under RTP, was required to submit preference of their posting with minimum 3 choices of station through head of their field establishment/units.

5. It is further submitted that after the applicant came to know that his name was appearing in the list of candidates due for the transfer under RTP, he made a representation dated 30.11.2017 to DGAQA to be retained at ORDAQA, Ghaziabad for at least upto maximum tenure of 7 years due to various facts and circumstances, inter alia, that he is the only son to look after his old aged parents. His mother is suffering from various ailments and she is required to go through various checkups and tests on regular basis. Along with the representation dated 30.11.2017, the applicant also gave his "Preferences for Posting/Transfer under RTP/Promotion" in terms of Enclosure 'C' of the performa where vacancies exist. It is pertinent to mention that in the form of Preference filled up by the applicant, he had given his choice of preferences for posting/transfer as under:-

11.

Name of Stations where the individual is desirous of posting (minimum three stations)

New Delhi

Muradnagar

Dehradun

6. The applicant has further contended that despite his aforesaid representation and the preferences opted by him, Director, HR, passed a biased order dated 16.03.2018 transferring/posting him from his present posting at ORDAQA, Ghaziabad to a very far away station at ORDAQA (HAL), Hyderabad among others Group 'B' officers and the same is also contrary to the Policy for deployment of Grade 'A' & 'B'.

7. He has further averred that the impugned order dated 16.03.2018 has been passed in a very arbitrary manner at the whims and fancies, as is evident from the fact that his choice for New Delhi station was not considered even though 16 vacant posts were available, however, a officer junior to him, namely Sh. Madhav Prasad Karn (SSA) whose name appears in the transfer order list 'b' at S.No.5 has been posted at New Delhi even though he is not entitled for any special relaxation.

8. It is submitted that after receiving the transfer order, the applicant immediately made a representation dated 19.03.2018 to DGAQA requesting him to review his order dated 16.03.2018 and pass appropriate orders for his transfer from the present station at ORDAQA, Ghaziabad according to his choice of preferences at New Delhi. When no reply was received by him on his representation dated 19.03.2018, He made another request/reminder dated 20.04.2018 but all in vain. Hence, he has filed the present OA praying that the same be allowed.

9. Heard the learned counsel for the parties and perused the OA.

10. The short question involved in this case is whether applicant can be retained at Ghaziabad or asked to join at Hyderabad immediately. From the above, it is clear that the applicant cannot make representations after representations on one pretext or other to stall her transfer. It is very true that in the matters of transfer, the Courts/Tribunals are not required to intervene. In normal circumstances, intervention of the court would be only confined to such cases where either mala fide is alleged and proved or there is a violation of some statute or where the laws of natural justice have not been respected. It is fully considered that the courts are not to go into the issue like justification of the administrative orders. In Sarvesh Kumar Awasthi versus U.P. Jal Nigam and Others [2003(11)SCC 740] wherein the Hon'ble Supreme Court has held as under:-

"3. In our view, transfer of officers is required to be effected on the basis of set norms or guidelines. The power of transferring an officer cannot be wielded arbitrarily, mala fide or an exercise against efficient and independent officer or at the instance of politicians whose work is not done by the officer concerned. For better administration the officers concerned must have freedom from fear of being harassed by repeated transfers or transfers ordered at the instance of someone who has nothing to do with the business of administration."

Similarly in *Somesh Tiwari Vs. Union of India & Others* [AIR 2009 SC 1399], the Hon'ble Supreme Court has held as under :-

"19. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved..."

11. Further, the Hon'ble Supreme Court in its judgment in *S.C. Saxena Vs. Union of India & Ors.*, 2006 SCC (L&S) 1890 has held as under:

"6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed."

12. In view of the law settled by the Hon'ble Supreme Court as well as the facts of this case, we find absolutely no merit in the applicant's plea and this OA is, therefore, liable to be dismissed. Accordingly, the same is dismissed. No costs.