

(2019) 02 CAT CK 0089
In the Central Administrative Tribunal
Case No : Original Application No. 421 Of 2019

E. Virendra Pandey

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 08-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0089

Hon'ble Judges : L. Narasimha Reddy J; Aradhana Johri, J

Bench : Division Bench

Advocate : Lokesh Kumar Sharma, Piyush Gaur

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. The applicant is working as Executive Engineer in the CPWD. At present, he is stationed at Delhi. Through an order dated 03.01.2019, the applicant and four others were transferred to various places. The applicant is transferred to Project Circle Behrampur in Electrical Division. Relieving order was also passed on 18.01.2019. This OA is filed challenging both the impugned orders.

2. The applicant contends that the transfer is motivated and malafide and that it is made only with a view to ensure that he is not present in Delhi. He contends that he is a Joint Secretary of the Association. It is also pleaded that the Department has issued instructions, which require readiness list year after year, indicating the names of the Engineers who have become ripe for transfer and his name does not appear in any of the lists issued in the recent past. However, he contends that as per the policy laid down by the Government, the minimum stay of an Engineer at a station is five years and he is said to be transferred on completion of just three years of tenure. The OA is of urgent nature.

3. We directed the learned Senior Standing counsel to obtain instructions. Today, he filed counter affidavit and placed certain documents before us. According to

them, the applicant was Incharge of a Supreme Court Project Division and that the same is going to be closed shortly and proceedings in this behalf were issued on 21.12.2018. It is also stated that the tenure for an official at station has been revised to three years through an order dated 11.12.2018.

4. In the counter affidavit, the circumstances that warranted the transfer of the applicant are furnished.

5. We heard Shri Lokesh Kumar Sharma, learned counsel for applicant and Shri Piyush Gaur, learned counsel for respondents.

6. It is no doubt true that the stay of an official at a particular station in the context of transfer was five years, as per the Memorandum. However, in the recent past, it was revised to three years. Added to that, the transfer of the applicant is in public interest. The record discloses that the transfer became necessary in view of the request made by the Chief Engineer Purvanchal through a letter dated 03.01.2019. The relevant portion reads as under :-

"It is very difficult to manage CUO Koraput Division, Koraput through additional charge arrangement from Berhampur, as far off about 500 kms. Sh. Khageshwar Kalah, AE promoted recently to the post of Executive Engineer is posted as VO, Bhubaneswar. He is interested for posting either at Koraput or Berhampur.

In view of above, his requested may be considered and may be re-posted either at Koraput or Berhampur under EZ-V.

B) The IISER Project Elect. Division at Berhampur has been created vide Order No.3/4/2018-S&D/453 dt 17.10.2018. But no EE(EI) has been posted in the said Division so far. As already mentioned, Planning works of IISER Project amounting to Rs.800 Cr. Approx are in progress and EE(E) is very essential to plan E&M Works."

7. A perusal of the Office Memorandum dated 21.12.2018, also indicates that the applicant has become surplus on account of closure of the Supreme Court Project Division. Under these circumstances, it is difficult to hold that the transfer of the applicant suffers from any legal infirmity.

8. Learned counsel for applicant states that the applicant is due to retire within two years and four months from now. In other words, he wants the stay of the applicant at a place of his choice, at the last leg of his service.

9. We are of the view that a request in this behalf can be made to the respondents and the same can be acceded to, as soon as the applicant completes six months of service at the present station.

10. We, therefore, dispose of this OA, refusing to interfere with the transfer order, but directing that the request of the applicant to post him at a place of his choice, in the last leg of his service, shall be considered before he completes six months of his service in Purvanchal Division.

There shall be no order as to costs. Order Dasti.