

(2022) 11 CAT CK 0012
In the Central Administrative Tribunal
Case No : Original Application No. 903 Of 2022

Pradeep Kumar

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 07-11-2022

Acts Referred:

Citation : (2022) 11 CAT CK 0012

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Rajesh Kumar, Pradeep Kumar Mishra, Rajpal Singh

Final Decision : Dismissed

Judgement

Om Prakash, VII, Member (J)

1. Shri Rajesh Kumar as well as Shri Pradeep Kumar Mishra, learned counsel appearing for the applicant and Shri Rajpal Singh, learned counsel appearing for the respondents are present.

2. Heard on interim application.

3. Submission of learned counsel appearing for the applicant is that the applicant had applied for mutual transfer and the same was allowed vide order dated 31.08.2022. The present O.A. has been filed with the request to stay the transfer order for a few months as the applicant's son is studying in class III and if the effect and operation of the transfer order is not stopped, the education of the applicant's son will be affected. It was also argued that the applicant is ready and willing to abide by the transfer order and only requests to keep in abeyance the effect and operation of transfer order for some time on grounds of mercy.

4. In support of his submissions he relies upon the judgement of Hon'ble Apex court in case of Director of School Education...vs. O. Karuppa Thevan 1994 SCC, Supl. (2) 666 passed on 31.01.1994 annexed at page 36 of the Original Application.

5. Learned counsel for the respondents states that the transfer order was issued by the Department concerned on the prayer made by the applicant on the basis of mutual transfer request. Now he cannot back down from his application where nothing was mentioned with regard to giving effect to the transfer in an annual session. It was also argued that the person with whom the request for mutual transfer was made by the applicant has joined at Jhansi, i.e. the transferred place. Thus, the applicant's prayer cannot be allowed at this stage.

6. I have considered the rival submissions made by the learned counsel for the parties and compared the same with the case laws relied upon by the learned counsel appearing for the applicant.

7. Applicant had applied for mutual transfer which was allowed by the Department. The applicant should have joined at the present place of posting. He cannot request for the transfer order to be kept in abeyance as it is a case of mutual transfer particularly when the other has joined at Jhansi. Thus, the interim prayer made by the applicant is not liable to be allowed. So far as the facts of the case law relied upon by learned counsel for the applicant is concerned, the facts of the present matter are totally different and no benefit would be extended to the applicant. Interim prayer made by the applicant is, therefore, rejected.

Order on the Original Application

8. Heard on the point of admission.

9. By means of the present Original Application, the applicant has sought following reliefs:-

"I. This Hon'ble Tribunal be pleased to issue an order or direction in the appropriate nature to quash and set aside the impugned order dated 31.08.2022 and 22.09.2022 (Annexure A-1 of the Original Application).

II. This Hon'ble Tribunal be pleased to issue any other or further suitable order or direction in facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.

III. Award the cost of the application in favour of the applicants."

10. Learned counsel appearing for the applicant states that the applicant is aggrieved by the impugned order dated 22.09.2022 passed by the respondents as well as mutual transfer order dated 31.08.2022 which has been passed by overlooking the personal difficulties of the applicant as his son is studying in class - III and transferring the applicant in mid academic session is arbitrary exercise and against the transfer guidelines of the respondents herein and as well as observation made by the Hon'ble Apex Court.

11. Learned counsel for the respondents states that the person with whom request for mutual transfer was made has already joined the transferred place at Jhansi and the request of the applicant for keeping the transfer order in

abeyance cannot be entertained.

12. Thus, considering the nature of the prayer when the other has joined at Jhansi, mutual transfer order has been acted upon, no fruitful purpose would be served in admitting the present O.A. and the same is liable to be dismissed at the admission stage itself.

13. O.A./903/2022 is dismissed accordingly.

14. No order as to costs.