

(2007) 11 DEL CK 0303

In the Delhi High Court

Case No : Writ Petition (C) No.: 6206 of 2007

Suraj Prakash Vats

APPELLANT

Vs

Central Board of Irrigation and Power and Another

RESPONDENT

Date of Decision : 23-11-2007

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2007) 11 DEL CK 0303

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : Prashant Bhushan, with Mr. Dushyant Sisodiya, for the Appellant; Neeraj Kishan Kaul with Mr. Ajit Puduserry, Amit Kumar Singh, Ms. Shikha Sarin and Mr. Karun Mehta, Advocate for Respondent No. 1 and Mr. S.K. Dubey, Advocate for R-2, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—The petitioner has filed the present petition under Article 226 of the Constitution of India, seeking, inter alia, a writ of certiorari for quashing the Office Order No. 77 issued by the respondents on 10.8.2007 transferring the petitioner from New Delhi to Guwahati. Brief facts are set out as under:

The petitioner, namely, Sh. Suraj Prakash Vats, has been working as Manager (Personnel & Administration) with the respondent no. 1, namely, the Central Board of Irrigation and Power (hereinafter referred to as "the CBIP") since about two decades. Sh. G.N. Mathur, who is the Secretary of CBIP, has been arrayed as respondent no. 2 in the present petition. The petitioner claims to have been the President of the Association of Employees of the CBIP, and in the said capacity, is stated to have filed a public interest litigation against the respondent no. 2 for usurping office in violation of the prescribed Recruitment Rules and for disturbing and destabilizing the very structures and financial viability of the CBIP. The said public interest petition being W.P. (C) No. 13170-13171/2005 entitled "Staff Welfare Association of CBIP vs. Central Board of Irrigation & Power & Others", is

stated to be pending disposal before a Division Bench of this Court. It is submitted that the respondent no. 2, apparently miffed by the exposition of his irregularities and maladministration by the petitioner, has illegally leveraged the authorities to transfer the petitioner, and accordingly, the petitioner vide Office Order No. 77 dated 10.8.2007 has been transferred from the New Delhi office of the CBIP to its newly created Regional Information Centre housed in the Assam State Electricity Board in Guwahati. Aggrieved, the petitioner has knocked the doors of this Court impugning the Office Order No. 77 dated 10.8.2007 and seeking that the same be quashed.

2. The petitioner has assailed the impugned Office Order No. 77 dated 10.8.2007 broadly on two grounds:

(i) Firstly, that his transfer is vitiated by mala fide inasmuch it has been made in retaliation of a public interest litigation filed by the petitioner bringing to the fore the irregularities and malpractices committed by respondent no. 2 in the course of office.

(ii) Secondly, that his transfer has been made de hors the prescribed rules and regulations governing the functioning and administration of respondent no. 1.

3. The averments put forth by the petitioner in support of his case, and the counter-averments of the respondents in rebuttal thereunto, are dealt with in extenso in paragraphs infra.

Re: Transfer made in Mala Fide Exercise of Power

4. The first leg of the petitioner's arguments assails the impugned Officer Order No. 77 dated 10.8.2007 as having been made in mala fide exercise of power.

5. Mr. Prashant Bhushan, learned counsel for the petitioner, has strenuously argued that the impugned Office Order No. 77 dated 10.8.2007 has been made at the behest of respondent no. 2 against whom the petitioner had initiated a public interest litigation exposing the irregularities and malpractices committed by him in exercise of his powers as the Secretary of the CBIP. It is further submitted that the petitioner alone has not been the victim of respondent no. 2's vengeance and that the latter has been arbitrarily transferring rebellious employees of the CBIP from one place to the other. To make good his point, learned counsel for the petitioner has cited the examples in para 17 of the writ petition including of one Sh. Ravinder Kumar who was initially posted as Manager (Publications) at the CBIP and was eventually transferred to Bhopal vide order dated 13.12.2005. It is submitted that the said Sh. Ravinder Kumar suffered a heart stroke as he could not endure the shock of his transfer and was eventually constrained to opt for voluntary retirement from service.

6. Learned counsel for the petitioner has further drawn the attention of this Court to the minutes of the 198th Meeting of the Executive Committee held on 7.1.2003. The said minutes are appended as "Annexure R-4" on page 248 of the Paper Book. One of the important agendas for discussion before the Executive

Committee during its 198th Meeting was the registration of the Association of Employees of the CBIP under the Trade Union's Act. 1926. The relevant minutes of the Meeting qua the said agenda are extracted as under:

Item X (ii): The consider the letter received regarding the registration of the Staff Association under the Trade Unions Act.

The Executive Committee after careful consideration decided that it would be prudent to wait and watch before any action is taken to recognize the Trade Union. The question of recognition of the Trade Union does not arise and it should be ensured that no impression of recognition is given. It was also decided that action should be initiated to transfer some of the members who are disturbing the good working atmosphere of the office, as it is the prerogative of the Board and the requirement of the Regional Centres should especially kept in mind.

Stringent action should be taken at an appropriate time against those indulging in these activities or disturbing the atmosphere. If necessary, the Board should go to the extent of terminating the services of some of the employees in the larger interest of the Board and other employers.

(emphasis supplied)

7. Learned counsel for the petitioner has relied on the aforesaid minutes of the 198th Meeting of the Executive Committee to bring home the point that the transfer policy at CBIP has never been an incidence of service but a tool of punishment. It is submitted that sub-para (ii) of Item Head X of the Minutes of the 198th Meeting of the Executive Committee expressly admits that all such transfers to offices located at distant place ought to be in nature of punishment to delinquent employees. The contention is buttressed by citing the examples of one Sh. A.K. Bhattacharya who was transferred to Hyderabad, Sh H.S. Rawat who was transferred to Bhopal, Sh. Dinesh Kumar who was transferred to Guwahati, etc. It is submitted that most of the offices to which these officials were posted have been created overnight sans the requisite budgetary approval from the General Body of the CBIP or any resolution passed by the Executive Committee and lack the essential work infrastructure. It is further submitted that most of these offices have invariably remained nonfunctional as the officials who were transferred to such offices either did not report on duty or opted for voluntary retirement.

8. Learned counsel for the petitioner has thus vehemently argued that the petitioner's policy of transferring its officials to artificially created offices at distant places in the country is nothing but a camouflage to get rid of undersized employees. It is submitted that the sudden decision of transferring the petitioner from the only office of the CBIP at New Delhi to an overnightly created Regional Information Centre at Guwahati is yet another vindictive attempt on the part of respondent no. 2 to get back at the petitioner for arraigning the former on charges of maladministration in a public interest litigation. Learned counsel for

the petitioner has further submitted that overnight decision of the respondent to create a Regional Information Centre at Guwahati and the unusual alacrity with which the petitioner has been transferred to that place is amply evident the fact that despite the idea of setting up a Regional Information Centre having been mooted way back in 1993, not once the same was put before the Annual General Body Meeting of the respondent no. 1 or considered by the Executive Committee during the last fourteen years.

9. Learned counsel for the petitioner has further assailed the Office Order No. 77 dated 10.8.2007 on the ground that the said order makes no provision for providing the requisite staff and infrastructure to the petitioner at the Regional Information Centre at Guwahati. It is contended that the impugned order apparently contemplates that the petitioner would have to perform the jobs of peon, steno, librarian, accountant and manager on his own. It is further contended that the respondent, in their decision to transfer the petitioner as In-charge of Library and Sale of Technical Publications, have overlooked the fact that the petitioner holds no degree or diploma or any other qualification or experience in Library Management or sale of technical publications and is thus not fit for the job.

10. Per contra learned counsel for the respondent have refuted with vehemence all allegations imputing mala fide to the impugned Office Order No. 77 dated 10.8.2007

11. Mr. Neeraj Kishan Kaul, learned Senior counsel for respondent no. 1, has vehemently contended that the petitioner has extraneously tried to create a nexus between the filing of the public interest petition and the Office Order No. 77 dated 10.8.2007 transferring the petitioner to Guwahati. Counsel further contends that respondent no. 2 was appointed in the year 2002 and the public interest Litigation was filed in the year 2004 and the petitioner in the present case is not one of the petitioners before the Court in the Public Interest Litigation. Moreover out of 29 members of the so called association, 26 members convened a meeting on 10.07.2007 and resolved to dissolve the association itself. In their view the association failed to fulfil any of its promises. The members addressed the Resolution to the Registrar of the Societies. A copy of the letter dated 11.07.2007 issued by the members to the Registrar, Cooperative Societies has been filed by the respondent as Annexure R-3 at page 244 of the writ petition. Once the association stands dissolved the petitioner, thus cannot call himself the president of any association as the association itself has been dissolved. Regarding the sub-centre at Bhopal, it is contended that the centre is being manned by a retired officer Sh. S.B. Dubey. The allegation that the petitioner has been transferred and posted to a technical section has also been refuted on the ground that the petitioner was initially dealing with personnel and Administration, Library and Sale of Publications. In readjustment of work only Personnel and Administration work was taken from the petitioner and he continues to do the remaining work.

12. It is submitted that respondent no. 2 had introduced various procedures and manuals like procurement manual and personnel manual were finalised and introduced after respondent no. 2 joined as Secretary. In order to create transparency in the working of various systems which, in fact, cause hindrance in the evil designs of the petitioner and Sh. V.P. Sharma which resulted in filing of the writ petition in the year 2005. It is submitted that as an example, orders of procurement of photocopier paper were being placed by Sh. V.P. Sharma, Manager (Finance) which was being entered into stores and he was also the paying authority. Respondent no. 2 decided that procurement and Stores should be separated from finance. The result being that the photocopier paper which was being procured @Rs. 140/- per after the change, the same has been procured @ 104/- plus taxes per ream. Such measures taken by respondent no. 2 were not appreciated by the petitioner.

13. Learned senior counsel for the respondent no. 1, has vehemently argued that a wrong impression is being created by the petitioner to show as an office sub-centre is being made at Guwahati only with the purpose to punish and victimise the petitioner and as if this office has been created overnight. The need to open sub-centre was conceived in the 198th meeting which was held on 07.1.1993. A need was felt to open a Technical Centre in the North--Eastern region in April, 2005.

14. Learned counsel for the respondent relies on a communication dated 11.04.2005 adduced to the Chairman and the Managing Director, North--Eastern Electricity Board Corporation Limited, Shillong. It is contend that initially it was thought proper to open a sub-centre at Shillong.

15. Prior to the filing of the Public Interest Litigation which was filed in the month of July, 2005, learned counsel for the respondent relies on the communication to show that the respondent had already thought of opening a sub-centre in the North--Eastern region and as on April, 2005 there was no grudge against the petitioner. Counsel has further drawn the attention of the Court to the 213th Meeting held on 31.02.2007 wherein it was decided to open two sub-centres one at Calcutta and the other at Guwahati. At stage itself the Assam State Electricity Board was requested to make available as well as to provide necessary furniture, computer, etc. Vide communication dated 27.07.2007, the Assam State Electricity Board while thanking respondent for its decision to open a sub-centre at Guwahati at Bijli Bhawan stated that they were ready to provide the space in the library as desired and advised the respondent to go ahead with necessary arrangements for facilitating the opening of sub-centre at Guwahati. The respondent requested the Chairman of Assam State Electricity Board to nominate a nodal officer to facilitate to make necessary arrangements for opening of the centre. Consequently, one Sh. S. Talukdar, OSD to Chairman was appointed as a nodal officer. He was deputed to New Delhi for finalising all the arrangements and during his visit an agreement was signed between the Assam State Electricity Board and the respondent wherein the Assam State Electricity Board agreed to

lease out space in their library for a period of three years at a monthly lease of Rs. 1,000/- Inauguration ceremony for the opening of the centre was to be held on 29.07.2007 at 1500 hours and the Chairman, State Assam Electricity Board as wheel as Secretary (Irrigation), Government of Assam were the Chief Guest and the Guest of Honour, Invitation letters were also sent to the administrators and professionals in the Eastern and North--Eastern region of the country and an opening ceremony was held. It is contended that the above narration of facts would clearly show that neither the decision to open a sub-centre was a decision in haste nor with a view to victimise or punish the petitioner but that was a plan which emerged from the meeting in the year 1993.

Re: Transfer de hors the prescribed Rules

16. The second leg of the petitioner's arguments assails the impugned Office Order No. 77 dated 10.8.2007 as having been made de hors the prescribed rules and regulations governing the CBIP

17. The power to open Centres and Sub--Centres in different regions in pursuance of the CBIP's goal of disseminating technical information across the country is vested in the Executive Committee of the CPIB by virtue of Section III of the Schedule of powers (appended at page 194 of the Paper Book). Further, the composition, duties and responsibilities of the Executive Committee are stipulated in Rules 15 and 16 of Irrigation (appended at page 92 of the paper Book). The said rules are reproduced thus:

Executive Committee

15. The affairs of the Board shall be administered, directed and controlled, subject to rules and regulations and order of the Board, by the Executive Committee. The Executive Committee of the Board for the purpose of the Act XXI of 1860 shall consist of the following:

- (a) The President.
- (b) The immediate Past President.
- (c) One member from each institution/organization which is admitted as a Executive Committee. Two of these members will be vice presidents, one from Irrigation side and one from the power side.

The nominated officer of a member organization should automatically become member of the Executive Committee unless the organization concerned nominates someone else.

- (d) Chairman, Central Water Commission, Ex-Officio.
- (e) Chairman, Central Electricity Authority, Ex-Officio
- (f) A representative preferably an engineer of the Ministry of Water Resources/ Power not less than a Joint Secretary to the Government of India.

(g) A representative of the Ministry of Finance, Govt. of India not below the rank of Joint Secretary of the Govt. of India.

(h) One representative each from Irrigation and power Departments of such other countries as may be admitted to the Board vide Rule 2.1.3.

(j) The president, and the two Vice Presidents shall be from amongst the members at(a), (b) and (c). Duties and Powers of the Executive Committee

The direction and management of the Board is vested in the Executive Committee subject to directions contained in resolutions passed at Board meetings held in accordance with the rules. Such resolutions having been duly entered in the minutes book and signed by the Chairmen of the Meeting(s). The Executive committee shall take necessary action as may be necessary to implement such resolutions. Further on a specific resolution, the Board may delegate such powers to the Executive Committee, the president, the Secretary/ Member Secretary or any Committee of the Board as may be deemed expedient.

15.1 The Executive Committee will ordinarily meet once in every six month, but can meet any time if the business of the Board may require. Six members shall constitute the quorum at a meeting, and at any adjourned meeting, the quorum shall be at least four members. Every members shall have one vote, in case of a tie on any question to be decided by a majority vote of the Executive Committee, the president shall have the casting vote, in addition.

15.2 The Executive Committee may appoint Committees and sub-Committees for any special purposes.

15.3 It shall be the duty of the Executive Committee to adopt every reasonable means for the achievement of the objects of the Board to provide for property conducting the business of the Board and to arrange for the publications of such papers and documents as may be calculated to advance professional Knowledge in the field of Irrigation, Electricity and allied subjects.

15.4 In the event of any matter arising, on which a decision of the Executive Committee is required urgently the Secretary/Member Secretary shall prepare a note on the subject and circulate it to the members of the Executive Committee for orders.

15.5 Subject to general control of the Executive Committee or as otherwise provided in the schedule the Secretary/Member Secretary shall have power to employ additional temporary technical, clerical and menial staff as the exigencies of the work in the Secretary's office demand and to grant honoraria or remuneration to such employees at his discretion and further to sanction travelling allowance for employees in accordance with the scale which it may approve, provided that no excess expenditure over the sanctioned budget is involved.

15.6 The Executive Committee shall have full powers to authorize expenditure

from the funds of the Board within the limits of the budget sanctioned by the Board.

18. Learned counsel for the petitioner has brought to the notice of this Court that the decision to set up a Regional Information Centre at Guwahati was crystallised in the 213th Meeting of the Executive Committee held on 13.02.2007 (appended at page 265 of the paper Book), learned counsel has submitted that the respondents have failed to point out as to who of the twenty-Two participants who attended the meeting were actually members of the Executive Committee. According to learned counsel, only Sh. G.N. Mathur and Sh. P. Lathika, whose names appear on the list of twenty-Two participants, are the members of the Executive Committee and the remaining persons shown in the list are not the members. It is vehemently contended that the 213th Meeting of the Executive Committee Meeting held on 13.02.2007 lacked the requisite quorum and thus any decision taken in the meeting with respect to the setting up of the regional Information Centre at Guwahati is de hors the prescribed Rules and Regulations Governing the CBIP.

19. Learned senior counsel for respondent no. 1, however, has countered the aforesaid contention of the petitioner submitting that the institutions mentioned against each name in the list of twenty-two participants are, in fact, the members of the Executive Committee and their count adds upto fifteen and not two as alleged by the petitioner. It is thus the case of the respondents that the decision to set up the Regional Information Centre taken during the 213th Meeting of the Executive Committee was made by the requisite quorum of participants prescribed by the Rules and Regulations governing the CBIP.

20. Learned senior counsel for respondent no. 1 has further contended that as per Rule 3.4.14 of the Recruitment Rules of General Managers and Below (appended at page 119 of the paper Book), a person recruited to the post of General Manger or below under the organization shall be liable to be posted anywhere in India. It is the case of the respondents that the petitioner, being the Manager (Personnel and Administration), has an All India Service liability under the prescribed Recruitment Rules and is thus liable to be posted anywhere in India.

21. Learned senior counsel for the respondent no. 1 has further substantiated his contentions by relying upon various pronouncements of the Apex Court, viz Gujarat Electricity Board and Another Vs. Atmaram Sungomal Poshani, , Mrs. Shilpi Bose and others Vs. State of Bihar and others, and Union of India (UOI) and Others Vs. Sri Janardhan Debanath and Another, .

22. The scope for judicial intervention under Articles 226 and 227 of the Constitution of India in matters pertaining to the transfer of an employee from one place to the other has been succinctly elucidated by the Apex Court in Union of India and Other Vs. Janardhan Debanath and Another (supra). The observations of the Court at paragraph 9 of the said case are particularly

relevant and reproduced thus:

9.....No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned.....

23. The seminal observations in Union of India and Others Vs. Janardhan Debanath and Another (supra) had previously been explicated in Shilpi Bose (Mrs.) and Others Vs. State of Bihar and Others (Supra), wherein, whilst delving on the extent to which the Courts can interfere in matters pertaining to transfer in service, the Apex Court opined:

4..... [T]he Courts should not interfere with a transfer order which is made in public interest and transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal right. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Departmental . If the Courts continue to interfere in day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest.....

24. Transfer of an employee, belonging to a particular category of transferable posts, is a part and parcel of his service conditions. An employee holding a transferable post has little or no say in deciding the place of his posting, and thus, he must always be prepared to face an order directing his transfer from one place to another. While delineating on this trite position of law in respect of administrative transfers in the case of Gujarat State Electricity Board and Another vs. Atmaram Sungomal Poshani (Supra), the Apex Court has emphatically warned the possible consequences that an employee holding a transferable post might face in not complying with or evading his transfer order. In this regard, paragraph 4 of the said cases is relevant and reproduced thus:

4. Transfer of a government servant appointed to a particular cadre of

transferable posts from one place to the other is an incident of service. No Government servant or employee of public Undertaking has [a] legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer, it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to order. If he fails to proceed on transfer order, he would expose himself to disciplinary action under the relevant rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other.

25. I have heard both sides at length and given my thoughtful consideration to the matter.

26. The expression "transfer", in service jurisprudence, connotes a change in the place of employment within an organization. The transfer of an employee from one place to other is strictly a policy decision emanating from the exigencies of administration and management. Albeit interference by the Courts of law in matters pertaining to administrative transfers is consciously sporadic and generally uncalled for, nevertheless, there are certain important principles which the Courts must keep in mind whilst adjudicating upon the vires of an order directing transfer of an employee from one place to another. These principles, scattered across a catena of judicial pronouncements, are briefly consolidated as under:

(i) Appointment by transfer of an employee should be reckoned as ubiquitous incident of service, which, however, does not result in any alteration of any of the service conditions to his disadvantage.

(ii) The exigencies of administration vest considerable discretion in an employer to transfer his employees from one place to the other. However, Such discretion is not an absolute or unfettered one, but is circumscribed by various circular/guidelines contained in the administrative instructions issued by the Government for regulating the mode of transfer in services.

(iii) An order directing the transfer of an employee, belonging to a particular cadre of transferable posts, from one place to the other does not result in the violation of any of his legal rights, provided order has been issued on administrative ground or in public interest, by a competent authority in bona fide exercise of its power to direct such a transfer, and in accordance with the administrative

guidelines regulating transfer in services.

(iv) An employee, holding a transferable post, does not enjoy the leverage to dictate his choice for a place of posting. Nor does such employee have any vested right to be posted at one place or the other. At the most, he can make a representation expressing his preference or inconvenience qua a particular place of posting, and if such preference or inconvenience can be allied with the larger interest of the organization, the same may be considered and given effect to by the appropriate authority.

(v) Judicial interfere in matters pertaining to transfer in service should ordinarily be eschewed, unless the order directing transfer of an employee from one place to the other is:-

(a) arbitrary unreasonable, discriminatory or vitiated by mala fide, or is otherwise premised on extraneous considerations.

(b) made de hors the prescribed rules of recruitment, or

(c) made in violation of the stipulated terms and conditions of appointment, etc.

27. Keeping in mind the aforesaid principles, I shall now embark on deciding the present petition.

28. Let me first throw light on the impugned Office Order No. 77 dated 10.8.2007 which is the subject matter of the present petition. For felicity of reference, the said order, appended at page 186 of the paper Book, is reproduced hereunder:

CENTRAL BOARD OF IRRIGATION AND POWER

MALCHA MARG CHANAKYA PURI NEW DELHI 110021

OFFICE ORDER

NO. 77 DATED: 10.8.2007

With increase in development activities in respect of Water resources and Power sectors in North Eastern region of the country and to match CBIP activities accordingly, for collection and dissemination of technical information it has been decided to set up Regional Information Centre (RIC) in the premises of Bijulee Bhavan, Paltan Bazar, Guwahati, the headquarters of Assam State Electricity Board. The centre will be inaugurated by Shri. S.C. Das Chairman, Assam State Electricity Board on 29th August, 2007.

In order to ensure smooth functioning of the aforesaid Regional Information Centre. Sh. Suraj Prakash Vats, Manager, Employee No. 401 A, is hereby transferred and posted to man the Guwahati Centre with immediate effect. He will stand relieved of his current duties on 10th August, 2007(AN).

On his arrived at the new station of posting, Shri Vats will report to Shri Sankar

Talukdar, Officer on Special Duty and Protocol Officer, on Special Duty and protocol Officer, Assam State Electricity Board, 4th floor, Bijulee Bhavan, Paltan Bazar, Guwahati, for further advice regarding activities of inaugural function and operation of RIC. Direction (IT) CBIP, new Delhi will continue to be his Controlling Officer.

Shri Vats is entitled to TA/DA and joining time as per rules.

Duties and Responsibilities of the in-charge of the CBIP Regional Information Center are broadly indicated in Annexure 1.

(emphasis supplied)

29. The main plank of the petitioner's submissions before this Court is that the entire tone and tenor of the impugned Office Order No. 77 dated 10.8.2007 is colored in mala fide inasmuch as the said order is a direct fall out of the annoyance felt by the respondent no. 2 whose shenanigans the petitioner claims to have exposed no. 2, whose shenanigans the petitioner claims to have exposed in a public interest litigation pending disposal before this Court. While attributing mala fide to the impugned order of his transfer, the petitioner has, in fact, gone on record to question the very policy of opening Regional Information Centres across the country by the respondent. According to the petitioner, most of these regional Information Centres are opened overnight within nil infrastructure and get closed in no time inasmuch as the employees who are transferred to such Centres invariably end up seeking voluntary retirement from service. It is thus vehemently contended that the actual motive of the respondents in opening these Regional Information centres in different parts of the country is to get rid of undesired employees by way to transfer.

30. The contentions of the petitioner imputing mala fide the impugned Office Order No. 77 dated 10.8.2007 fail to convince Me.

31. It is trite philosophy that mala fides are easy to allege but difficult to prove. Any allegation premised on bias or mala fides must be supported by particulars and assertions that would probabalize, if not conclusively establish, the allegation.

32. In the present case, the onus to establish the existence of mala fide in the impugned order transferring the petitioner from New Delhi to Guwahati is inarguably on the petitioner himself. During the course of proceedings before this Court, the entire thrust of the petitioner's arguments imputing mala fide to the order of his transfer has been on the public interest litigation arraigning the respondent no. 2 on charges of usurping of office and maladministration. However, it is indeed strange that petitioner, who claims to have spearheaded the said public interest petition in the capacity of president of the Association of employee of the CPB, is himself not a party to the said petition Moreover, the respondent have brought on record a copy of the letter dated 11.7.2007 as per which the Association of Employees of the CBIP, in whose name the public interest petition has been filed, stands dissolved.

33. The fact of the petitioner not being a party to the public interest petition and the subsequent dissolution of the Association of employees gives no justifiable reason for this Court to presume or believe in the sanctity of the public interest litigation or the allegations levelled therein. I have no hesitation in stating that the situation might have been different, that is, there could have been some probability of mala fide if the charges that have been arraigned on respondent no. 2 were found to have been conclusively established in the public interest petition pending adjudication before this Court. However, when the allegations made in the public interest petition against the respondent no. 2 itself have lost merit and the so-called Association of Employees of the CBIP that made the allegations has lost its identity in the eyes law, then, in such a case, any adverse presumption of there being a mala fide nexus between the filing of the public interest petition and the transfer of the petitioner to Guwahati would not only be unjustifiable but highly prejudicial to the interest of the respondents. Thus merely because the petitioner claims that he below the whistle on the mal practices of respondent no. 2, without there being any conclusive findings to that effect, does not by itself gives this Court a convincing ground to presume that the transfer of the petitioner is rooted in mala fide considerations.

34. The petitioner has also alleged of there being a punitive element in the impugned order of his transfer thereby bordering on the existence of mala fide. It has been strenuously argued that the respondents have been arbitrarily transferring employees to distant places pursuant to the filing of the public interest petition with a view to get rid of rebellious employees. However, the petitioner has brought nothing on record to show as to how many transfer orders were passed by the respondents pursuant filing of the public Interest petition in the year 2005. Except for the transfer of one Sh. Ravinder Kumar to the CBIP's sub-centre at Bhopal on 13.12.2005, all other instances of transfer cited by the petitioner appear in to those which were made between 1993 to 1998, during which period respondent no. 2 was not the Secretary of the CBIP.

35. The possibility of the impugned Office Order No. 77 dated 10.8.2007 being vitiated by mala fide also stands ruled out as the respondents have placed ample material on record justifying the transfer of the petitioner to Guwahati. The Minutes of the 213th Meeting of the Executive Committee Meeting held on 13.2.2007 as well as the postal correspondence dated 11.4.2005, conclusively suggest that the decision of setting up a Regional Information centre at Guwahati is not a decision taken overnight as the very idea of Setting up of Regional Information Centres has been an intrinsic part of the CPIB's goal of disseminating technical information across the country.

36. In view of the aforesaid findings and observations, I find no ground to interfere with the impugned Officer Order No. 77 dated 10.8.2007 having regard to the avowed goal of respondent no. 1 of establishing Regional Information centres across the country for dissemination of technical information Centres across the country for dissemination of technical information, the Office Order

No. 77 dated 10.8.2007 transferring the petitioner from New Delhi to Guwahati, appears to be in the circumstances fair and reasonable. It is now upto the petitioner to assume his official responsibilities at Gauhati at the earliest so as give effect to the order of his transfer. The Present petition stands dismissed, with no orders as to costs. Interim order stands vacated.