(2022) 07 CAT CK 0022

In the Central Administrative Tribunal

Case No : Original Application No. 185 Of 2022

Vinod Kumar — APPELLANT

Vs

Union Of India & Others — RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Citation : (2022) 07 CAT CK 0022

Hon'ble Judges : Anand Mathur, Member (A);Pratima K Gupta, Member (J)

Bench : Division Bench

Advocate : Sanjay Kumar Om, Udai Chandani

Final Decision : Disposed Of

Judgement

Pratima Gupta, Member (J)

1. Shri Sanjay Kumar Om, learned counsel for the applicant, and Shri Udai Chandani, learned counsel for the respondent Nos.2 to 4 are present.

2. The applicant is aggrieved by the impugned transfer list issued vide letter no.AE-II/03/WM-1/Gr.-IIAGT-2021/258/Vol. 1/771 dated 16.07.2021 to the extent that the applicant has been transferred to Pipri Sonbhadra.

3. The applicant has sought for the following reliefs:-

i) Issue an order or direction to quash the consolidated transfer and posting order of DAO/DA Cadre under Annual General Transfer 2021, issued vide letter number AE-II/03/WM-1/Gr.-IIAGT-2021/ 258/ Vol.1/771, dated 16.07.2021, of the Deputy Accountant General (DA Cadre Control)-Respondent No.3, in so far as it affects the transfer and posting of the applicant at Kanhar Construction Division 3, Pipri, District Sonebhadra (Annexure No.1).

ii) Issue an order or direction to quash the order dated 18.11.2021 passed by the respondents, thereby arbitrarily refusing to consider the grievance raised by the applicant.(Annexure No.2).

iii) Issue an order or direction commanding the respondents to consider the grievance raised by the applicant through the representations submitted by him and pass appropriate orders in the light of guidelines dated 20.03.2015 issued by the respondent No.1.

iv) Issue any other/further order which this Tribunal may deem fit and proper under the facts and circumstances of the case.

v) Award cost of the petitioner to the applicant".

4. The brief facts leading to this original application are as follows:-

That the applicant while working as Senior Divisional Accounts Officer of U.P DAO/ DA cadre was posted at Kanhar Constructions Division-3, Pipri, District-Sonebhadra. The transfer and posting of the DA cadre are to be decided by the Accountant General U.P., Prayagraj in accordance with the guidelines and instructions of the Controller Auditor General vide letter dated 20.03.2015. The respondent no.4 informed the applicant and other members of the DR cadre about the proposed Annual General Transfer 2021 and invited objection in this regard. Upon finalization of the aforesaid transfer list, the members of the DAA cadre whose names were mentioned in the list dated 01.06.2021 were advised to submit their options for four stations. In pursuance of the said advice the applicant opted for four stations Robertsganj-Sonebhadra, Mirzapur, Jaunpur and Bahraich. Thereafter, as per the consolidated impugned transfer list dated 16.07.2021, the applicant has been transferred to Provincial Division, PWD, Kanhar Construction Division-3, Pipri-Sonebhadra. In pursuance of the said transfer list the applicant has already joined the new place of his posting i.e. Pipri-Sonebhadra. The applicant has challenged the said transfer list to the extent that the applicant has been transferred to Pipri-Sonebhadra on the following grounds:-

i) That the respondents have come out with the said transfer list ignoring the choice of station made by the applicant which is in complete violation of the transfer guidelines dated 20.03.2015. Clause 4 (i) (e) reads as under :-

ii) (e) Option for posting in particular station(s) should be called for from the individuals and efforts should be made to accommodate the officers at the place of their choice as far as possible, subject to availability of vacancy and administrative exigencies;

ii) The other members of the said list have been given their choice of posting while the request of the applicant has not been acceded to. The applicant was already holding additional charge of Robertsganj-Sonebhadra while the said transfer orders were carried out by the respondents.

iii) Before joining the said station the applicant submitted a representation dated 20.07.2021 which is still pending consideration before the respondents. The applicant joined his new place of posting on 04.08.2021. The said representation dated 20.07.2021 has been followed by subsequent reminders which are pending consideration before the respondents.

5. The respondents have filed their counter reply along with the written submissions which are part of record. By way of the counter reply the respondents do not dispute that the respondents while carrying out the Annual General Transfers followed the guidelines on the subject dated 20.03.2015. It is also submitted that as many as 383 officials have been considered while carrying out the said transfer and the choice of posting were duly considered by the committee constituted for the purpose under the said guidelines. It is also not in dispute that the applicant opted for the 4 stations of his choice for posting mentioned herein above. The AGT committee while making its recommendation endeavored to accommodate everyone at their choice posting to the extent feasible. However, they followed the said exercise on the basis that the heaviest stations were to be allotted to the officials as per their eligibility, seniority and experience. The applicant being the senior most was given the heaviest station i.e. Pipri-Sonebhadra. The transfers and postings of the DA cadre are decided by the Accountant General (A&E)-2, UP Prayagraj, strictly in accordance with the guidelines and instructions issued by the Comptroller and Auditor General of India, vide his letter No.502-staff (Appt.)/131-2015, dated 20 March, 2015.

6. Learned counsel for the applicant, by way of supplementary affidavit 1 and 2, claims that after filing of the said petition the respondents have started the exercise of the Annual General Transfer for the 2022 as well, while the representation of the applicant is still pending consideration. He claimed that even today one of the choice stations i.e. Mirzapur is lying vacant and accordingly, the case of the applicant be considered against the same and he prays that till the said application is considered, the station (post) be kept vacant.

7. The matter was listed for consideration of interim relief. However, with the consent of learned counsel for the parties this OA is decided finally.

8. Heard learned counsel for the parties and perused the pleadings on record.

9. It is not in dispute that the applicant is under All India Service Liability.

i) That the said transfer order has been carried out in the exigencies of service. The respondents have carried out the exercise following a detailed policy, from the relevant clause cited it is clear that the incumbents should be accommodated as far as possible, to the choices made by them.

ii) That the choice of posting opted by the applicant has not been acceded to after being considered by the committee constituted under the guidelines for administrative reasons explained in the counter reply particularly the fact the applicant was senior most and the station given to the applicant was heaviest, thereby implying that it commensurate with his experience.

10. The applicant has already joined his new place of posting. As the applicant has claimed that one of the choice of postings that he opted was still lying vacant i.e. at Mirzapur and the representation of the applicant is still pending

consideration before the respondents, we feel that this original application can be disposed of with a direction to the respondents to consider the case of the applicant for one of his choices for posting i.e. Mirzapur, sought by him. The outcome of the said consideration be communicated to the applicant by way of a reasoned and speaking order, till such time the said vacant station (post) if lying vacant as claimed by the applicant at the time of passing of the said order, may not be filled by any other member of the DA cadre.

11. In view of the above observations, the original application is disposed of. No order as to costs.

