

(2023) 10 CAT CK 0038
In the Central Administrative Tribunal
Case No : Original Application No. 3313 Of 2023

Vinod Kumar Tomar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 27-10-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 10 CAT CK 0038

Hon'ble Judges : Manish Garg, Member (J)

Bench : Single Bench

Advocate : Arun Bhardwaj, Pushpinder Yadav, Nishant Balwguna, S N Verma

Final Decision : Disposed Of

Judgement

Manish Garg, Member (J)

1. The matter was mentioned and was taken up for urgent hearing. Keeping in view the urgency in the matter, let Registry assigned a regular number as per Rules.

2. The present Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

"8.1 To quash and set aside the order 19.10.2023 in respect of applicant at serial no.2 whereby the applicant is being transferred from DC-6 to SE (Regional Training Institute).

Or/and

Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant.

Interim Order:-

The applicant at serial no.2 be not relief from DC-6 in pursuance of order dated

19.10.2023 till the final outcome of the present O.A.

Or

Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant."

3. Learned counsel for the applicant states that applicant was initially transferred from CE (Cum ED) AIIMS Jammu to AE (P) CE cum ED Jammu vide Order dated 30.05.2023. In compliance of the same, he joined the new place of posting. Thereafter, on 18.09.2023 he was transferred from Jammu (Hard Posting) to Delhi, which he accordingly joined. However, the applicant was again transferred from DC-6 to SE (Regional Training Institute), Delhi vide transfer order dated 19.10.2023.

4. Learned counsel for the applicant states that the applicant is a physically handicapped candidate and he has been frequently transferred from one place to another as pointed hereinabove. He further draws reference to Transfer Policy, wherein the following has been stated:-

"Posting of Physically Handicapped Candidates

"It may not be possible of desirable to lay down that physically handicapped employees belonging to Group-A or Group-B who have All India Transfer liability should be posted near their native places. However, in the case of holder of Group-C or Group-D posts who have recruited on regional basis and who are physically handicapped, such person may be given posting, as far as possible, subject to administrative constraints, near their native places within the region. Requests from physically handicapped employees for transfer to or near their native places may also be given preference."

5. Learned counsel for the applicant submits that the applicant has no grievance regarding transfer posting, however, the said has been more frequent in nature and therefore, affecting his health as well as contrary to the Transfer Policy. He further contends that there are no administrative exigencies. Also, the applicant is at last leg of his career and 57 years old and being physically handicapped a lenient view may be taken. Aggrieved by the frequent transfer, the applicant has already preferred a representation dated 26.10.2023, which is pending consideration before the respondents. Learned counsel for the applicant submits that the applicant has not been relieved from the present place of posting till date.

6. Be that as it may, this OA can be disposed of with a limited direction to the Competent Authority to dispose of the pending representation dated 26.10.2023, keeping in view the transfer policy qua the physically handicapped candidates as the frequent transfer not only affects the applicant but also creates hurdles in administrative efficiency and performing his duties, duly following the principles of natural justice, by passing a reasoned and speaking order, within a period of four weeks from the date of receipt of a certified copy of this Order. Order

accordingly.

7. Since no relieving order has been issued to the applicant till date, the respondents are directed not to issue any relieving order till the disposal of the representation dated 26. 10.2023.

8. A copy of the speaking order so passed be given to the applicant. It is made clear that we have not entered into the merits of the case.

9. Later on, Mr. S N Verma, learned counsel appeared and accepted notice on behalf of the respondents. Let him inform the directions passed by the Tribunal to the respondents.

10. With the above directions, the OA stands disposed of.

11. All pending MAs, if any, shall also stand disposed of accordingly.

12. No order as to costs.

13. Order DASTI.