

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.20/17/2018

Hyderabad, this the 13th day of March, 2020



Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

CHN Sekhar, S/o. CH Basavaiah,
Aged about 38 years,
Occ: Senior Social Security Assistant,
In the O/o. Asst. P.F. Commissioner, Nellore,
R/o. 24-3-560, Podulkur Road,
JVR Colony, Nellore.

... Applicant

(By Advocate: Mr.K. Siva Reddy)

Vs.

The Union of India, Rep. by

1. The Addl. Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Zonal Office, Barkatpura, Hyderabad.
2. The Regional Provident Commissioner II/ OIC,
Regional Office, Kadapa.
3. The Asst. Provident Commissioner,
District PF Office, Nellore.

... Respondents

(By Advocate: Mr. G. Jaya Prakash Babu, SC for EPFO)

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. This OA is filed challenging the validity of the transfer vide Officer Order No.40 of 2017-18 dtd. 1.1.2018.



3. Brief facts are that the applicant while working as Social Security Assistant in the respondents organisation was posted on transfer to a District Office due to restructuring of the respondents organisation, after calling for options and the applicant thus came to be posted to work under the control of the 3rd respondent office vide office order dated 22.5.2017. Later, on 1.1.2018 respondent No.2 cancelled the transfer orders issued at the instance of the 1st respondent. Aggrieved, the OA has been filed.

4. The contentions of the applicant are that the transfer order was cancelled within a short period and that too, without notice. His son, who is mentally retarded, has been admitted in a school at Nellore for mentally challenged children and that there is no such school at Kadapa where the applicant is proposed to be re-transferred. Applicant's wife is also having a mental disorder due to the poor health of the son. As per DOPT Memo employees, who are having mentally challenged children, have to be posted to their place of choice. Father of the applicant is suffering from paralysis and heart ailment, is one another contention made to be retained at the station where applicant is working. Further, an employee by name Sri Ram Seshaiah has been working at the same station for 7 years and without transferring the said official, moving the applicant within a short period is discriminative. Applicant represented against the transfer order on 2.1.2018

and it has not been disposed of. The grounds for transfer are not administrative but for some extraneous consideration.

5. Respondents in the reply statement state that the representations of the applicants against the transfer order have been forwarded to the Zonal Office of the respondents organisation on 8.1.2018 and the same are pending with the 1st respondent.



6. Heard both the counsel and perused the pleadings on record.

7. I) Applicant has been transferred to be under the control of the 3rd respondent office on 22.5.2017 after calling for options, due to restructuring of the respondents organisation. Thereafter, it is reported that at the instance of the 1st respondent, the transfer order was cancelled ordering status quo ante. Applicant on approaching the Tribunal, as an interim measure, the respondents were directed on 3.1.2018, to retain the applicant at the station where he was working. Representation made by the applicant has been referred to the 1st respondent in 2018 and a decision is yet to be taken in the matter. The grievance of the applicant is that the cancellation of the transfer order dt 22.5.2017 was without notice and that in view of the personal issues relating to the education of children and health of the family members, he needs to be retained at 3rd respondent office. Besides, retransferring him within a short period is neither in the interests of the organisation or the applicant is the fervent submission of the Ld. Counsel for the applicants. Moreover, in respect of employees who have mentally retarded children they have to be accommodated at a place of choice on transfer as per DOPT memo dated 15.2.1991. Applicant has submitted that he has admitted his son in a school for mentally challenged

at Nellore and that there is no such school at Kadapa where he is proposed to be retransferred. In response, the Ld. Counsel for the respondents has submitted that transfer is an incidence of service and it has to be done in organisational interests and that all other employees complied with the proceedings dated 1.1.2018 except three employees which includes the applicant.



II) After hearing both the counsel, 1st respondent is directed to dispose of the representation dated 2.1.2018 of the applicant by issuing a speaking and reasoned order as per extent rules and in accordance with law, within a period of 8 weeks from the date of receipt of this order, by keeping in view the DOPT memo dated 15.2.1991 in respect of employees with mentally challenged children and the availability of the said school as well as ensuring that there is no grievance on grounds of discrimination in transfers. Till the disposal of the representation, the applicant is to be continued in the station where he was working as per the interim order of this Tribunal referred to. Consequent to the disposal of the representation, if the applicant is aggrieved with the decision of the respondents he is granted the liberty to approach the Tribunal, if he so desires.

III) With the above direction, the OA is disposed of, with no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

/evr/