

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.20/216/2020

Hyderabad, this the 12th day of March, 2020



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

M. Nagaraju, S/o. M. Ayanna,
Aged about 58 years,
Occ: Social Security Assistant (SSA) (Group C),
O/o. Asst. P.F. Commissioner, Kurnool,
R/o. 76/111-46-C-8, Guru Raghavendra Nagar, Kurnool.

... Applicant

(By Advocate: Mr.K. Siva Reddy)

Vs.

The Union of India, Rep. by

1. The Addl. Central Provident Fund Commissioner (AP),
Employees Provident Fund Organization,
Zonal Office, Door No. 26-4-16, 17,
2nd Floor, Granolive Street, Gandhi Nagar,
Vijayawada – 520 003.
2. The Regional Provident Commissioner II/ OIC,
Regional Office, Kadapa.
3. The Asst. Provident Commissioner,
District PF Office, Kurnool.

... Respondents

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

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

2. The OA is filed in regard to the transfer of the applicant vide letter dated 2.3.2020.



3. Brief facts of the case, as submitted by the learned counsel for the applicant, are that the applicant, while working as Sr. Social Security Assistant in the respondents organisation at Kurnool, was transferred to Kadapa on 22.5.2017. After joining at Kadapa and after working for some time, his transfer from Kurnool to Kadapa, vide order dt. 22.05.2017, was cancelled on 1.1.2018 and he was posted at Kurnool on 03.01.2018. While working as such, as recently as on 2.3.2020, applicant has been transferred, once again, from Kurnool to Kadapa vide impugned order. Aggrieved, the OA has been filed.

4. The contentions of the applicant are that the applicant has been frequently transferred and that his colleagues have obtained stay from the Tribunal challenging such transfers. However, in strict obedience of the transfer orders, he joined the stations where he was posted but frequent transfers are upsetting his life rhythm of taking care of his wife suffering from chronic ailments and working at Kurnool.

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

6. I) Ld. Counsel for the applicant has submitted that the frequent transfers are not only disturbing the personal life of the applicant but also his professional efficiency by citing the judgment of the Hon'ble

Madhya Pradesh High Court in ***Ripudaman Singh Yadav Vs. State of Madhya Pradesh, 2009 SCC Online MP 1658***, in W.A. No.1141/2019, decided 16.07.2019, wherein it was held as under:



“A stress-free working environment is inter alia possible when the State, functioning as an employer, while effecting transfers takes into account not only the administrative exigencies/public interest but also the genuine personal problems of the public servant liable to be transferred. A balance has to be struck by the employer which is though difficult but not impossible to achieve. Every government in it's capacity as an employer owes it to its employees. If this balance between the administrative exigency and personal inconvenience is kept in mind before every event of transfer, the cause of heart burning amongst public servants under transfer would reduce to the minimum thereby creating a healthy and congenial atmosphere between the employer and employees which in turn contributes greatly to the overall development of the particular institution and as well as the nation.”

Even in respect of working employees, learned counsel for the applicant submitted that Hon'ble Rajasthan High Court in ***Shyam Singh Lakhawat vs. Union of India, (2019 SCC Online Raj 301)***, decided on 04.04.2019, has allowed a petition based on the grounds that when the policy guidelines provide for accommodating the working employees at the same station, the same need to be acted upon. Thus, the respondents, though empowered to order transfers, the same should be resorted to by also taking into consideration different elements of transfer like genuine personal problems. Besides, he has pointed out that as per DOPT instructions dated 30.9.2009, in respect of working spouses, clearly enunciate that they should be accommodated in the same station. Observation of Hon'ble High Court of Rajasthan is in favour of the applicant on this ground. Besides, in respect of some of his colleagues, this Tribunal has granted stay vide orders dated 3.1.2018 and in his case, for being obedient, he is put to hardships. Therefore, the transfer of the

applicant and that too frequently, being against the DOPT norms, is liable to be cancelled, is the submission of the Ld. Counsel for the applicant. In contrast, Ld. Counsel for the respondent, while confirming the facts of the case as stated at page 3 *supra*, has vehemently argued that the transfer had to be effected in organisational interests. Transfer is an incidence of service and that organisational interests are paramount and individual interests are subservient to the same.



II) After hearing both the sides, keeping in the view the frequent transfers of the applicant and the DOPT instruction referred to, the applicant is directed to submit a comprehensive representation detailing the reasons to be retained at Kurnool as per rules and law, within a week of receipt of this order and thereupon, respondents shall dispose of the representation within a period of 4 weeks of the receipt of the representation by issuing a speaking and reasoned order, in consonance with extant rules and in accordance with law.

III) In case the applicant is aggrieved with the disposal of his representation, he is granted liberty to approach this Tribunal, if he so desires, within a week of the date of disposal of his representation. Till that time, the respondents are directed to continue the applicant at Kurnool.

IV) With the above direction, the OA is disposed of, at the admission stage, without going into the merits. No order as to costs.

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

/evr/