

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00902/2019

Jabalpur, this Friday, the 6th day of March, 2020

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER



Alok Agrawal S/o Shri Mahendra Prasad Agrawal
 DOB:03.04.1969, Working-Sr. Technician,
 R/o MIG-62 Padmnabhpur Colony,
 District-Durg, (CG)-491001

-Applicant

(By Advocate –Shri Vijay Tripathi)

V e r s u s

1. Union of India, through its Secretary,
 Ministry of Steel & Power Udyog Bhawan,
 Dr. Maulana Azad, New Delhi-110011
2. Chairman and Managing Director. Steel Authority of
 India Ltd. Ispat Bhawan, Lodhi Road, New Delhi-110001
3. Managing Director/Chief Executive Officer,
 Steel Authority of India Ltd. Bhilai Steel Plant,
 Bhilai, District-Durg (CG-490001)
4. Sr. Manager, (Personnel-Recruitment & H.R.P.E.)
 Steel Authority of India Ltd. Bhilai Steel Plant,
 Personnel Department, Manpower Planning &
 Recruitment Section, Bhilai, District-Durg (CG)-490001
5. Director Incharge, Medical & Health Services
 (DMHS I/c), Jawahar Lal Nehru Hospital &
 Research Centre (JLNH & RC),

Bhilai Steel Plant, Bhilai,
 District-Durg (CG)-490001
(By Advocate –Shri P.Shankaran Nair)
 (Date of reserving the order:-07.02.2020)

-Respondents

O R D E R

By Ramesh Singh Thakur, JM:-



This Original Application has been filed against the impugned order dated 24.03.2018 (Annexure A-1) whereby the applicant has been transferred/posted from Medical department (Jawahar Lal Nehru Hospital and Research Centre Sector-9, Bhilai-Township) to Steel Melting Shop (SMS-2) in Bhilai Steel Plant, Bhilai.

2. The applicant has sought for the following relief in this Original Application.

“8. Relief Sought:-

(i) Summon the entire record from the possession of the respondents for its kind perusal.

(ii) Set aside the order dated 24.03.2018 (Annexure A-1), relieving order dated 24.03.2018 (Annexure A-2) and letter/communication dated 06.03.2019 (Annexure A-3).

(iii) Direct the respondents to repatriate the applicant to the Medical department (Jawahar Lal Nehru Hospital and Research Centre Sector-9, Bhilai-Township) as a Senior Technician with all consequential benefit.

(iv) Any other order/orders, which this Hon'ble Court deems fit and proper may also be passed.

(v) Award cost of the litigation in favour of the applicant."



3. As per pleadings the case of the applicant is that the applicant was initially appointed on 11.03.1991 as Senior Technician cum Operative Trainee. After the appointment the applicant was sent for training for a period of 1 ½ years. After completion of training the applicant was posted as Sr. Technician (Grade L-6) at Bhilai Steel Plant where the work of the applicant was to "Repair and maintenance of medical equipment".

4. Thereafter, the applicant was given up-gradation on completion of 4/5 years of service at regular intervals. The applicant was shocked to receive the order dated 24.03.2018 (Annexure A-1) whereby the applicant has been transferred/posted from Medical department (Jawahar Lal Nehru Hospital and Research Centre Sector-9, Bhilai-Township) to Steel Melting Shop (SMS-2). When the applicant did not join at the transferred place, the respondent department has

written letter dated 07.05.2018 (Annexure A-4) whereby he was threatened that if he will not report to SMS-2 immediately, the disciplinary action will be taken against him. Thereafter the applicant joined in new department i.e. SMS-2 on 21.05.2018 (Annexure A-5).



5. After submitted joining the applicant preferred a representation dated 19.05.2018 and 08.06.2018 (Annexure A-6) to cancel the transfer mentioning therein that the transfer order has not been issued in administrative exigencies or in public interest. Infact the same is issued to harass and victimize the applicant. When the respondent department has not given any response towards the representations of the applicant, he lodged his protest against the illegal temporary transfer/posting.

6. Thereafter in response to the complaint lodged of the applicant the respondent No. 4 has issued a letter dated 06.03.2019 (Annexure A-3) whereby the applicant was informed that he has been transferred due to administrative reasons. Again applicant represented to



the respondent department, by further making a representation dated 09.09.2019 (Annexure A-9), however, the applicant did not get any positive response from the respondent department. The applicant has mentioned that the transfer order has been issued ignoring the fact that as per clause 23 of the standing order he cannot be transferred to the Department where the work of similar nature is not available.

7. The respondents have filed the reply to the Original Application.

8. It has been submitted by the replying respondents that the Bhilai Steel Plant is a Public Sector undertaking under Steel Authority of India being controlled by Govt. of India, Ministry of Steel and Power. It has got its own rules/regulations governing the service conditions of its employees and they are governed under those rules/regulations.

9. The applicant was initially selected to undergo a course of Sr. T.O.T. under the terms and conditions given in the appointment order dated 20.02.1991



(Annexure R-1). On having accepted the same he joined as Trainee under the respondents' plant at Bhilai on 11.03.1991. After successful completion of training he was appointed as Sr. Technician on regular basis with effect from 11.09.1992 vide order dated 05.11.1992 (Annexure R-2).

10. That the applicant was transferred from Medical Department to SMS-2 Division Vide order dated 24.03.2018 (Annexure A-1) in CCs (Mech.) as Senior Technician only for maintenance job. As per the terms of appointment he is liable to serve in any part of India and will be governed by the rules and regulations of service and standing orders of the Company as applicable to the employees of his status in those work as well as administrative order of the organization.

11. On his transfer in SMS-2 department, his service conditions have not been altered and it never affects his nature of job, pay, promotion, seniority etc. Therefore, the transfer does not violate any rules/regulations of the Company under which he is governed. Applicant has no

preferential right to be posted at the same place for indefinite period and it is the prerogative of the employer to post his to suitable place where his services can be utilized at the best interest of the Company and in exigencies of service.



12. It has been specifically submitted by the replying respondents that the applicant is a Maintenance Sr. Technician on equipment and his services can be utilized anywhere in the plant for maintenance work though there may be different equipment. Being maintenance Sr. Technician, he was deployed for maintenance work in new place, where he was found suitable for the job.

13. The applicant has filed the rejoinder to the reply filed by the respondents, wherein the applicant has reiterated its earlier stand.

14. The applicant has specifically submitted that the services of the applicant were utilized altogether right from the date of appointment 11.03.1991 to 24.03.2018 (about 28 years) for maintenance job of hospital's micro

and critical equipments maintenance. During the 28 years at different stages, the applicant was promoted five times and posted in the same place and at the same period the applicant was trained by different doctors of medical department.



15. It has been further submitted by the applicant that the applicant was appointed on March 1991 and the first, second and third expansion of the plant was completed in 1967, 1988 and in the year of 2010 the massive modernization and expansion started at third stage respectively, under such prevailing conditions, how one can be absorbed in expansion hot production unit?

16. We have heard the learned counsel for both the parties and carefully perused the pleadings and the documents annexed therewith.

17. From the pleadings it is admitted fact by both the parties that the applicant was appointed on 11.03.1991 as Senior Technician cum Operative Trainee. Further it is also admitted fact that after completion of training the



applicant was posted as Sr. Technician (Grade L-6) at Bhilai Steel Plant where the work of the applicant was to "Repair and maintenance of medical equipment". It is also an admitted fact, that the applicant was given up-gradation on completion of 4/5 years of service at regular intervals. The applicant has been transferred/posted from Medical department (Jawahar Lal Nehru Hospital and Research Centre Sector-9, Bhilai-Township) to Steel Melting Shop (SMS-2). When the applicant did not join at the transferred place, the respondent department has written letter dated 07.05.2018 (Annexure A-4) whereby he was threatened that if he will not report to SMS-2 immediately, the disciplinary action will be taken against him. Thereafter the applicant joined in new department i.e. SMS-2 on 21.05.2018 (Annexure A-5).

18. The question of determination before us is that whether the applicant can be posted at Steel Melting Shop (SMS-2) department?

19. The contention of the applicant is that the respondent department has violated the standing order No. 23 wherein it has been specifically prescribed that the person can be transferred to another department subject to the condition that the job should be of similar nature and such as he is capable of doing it.



The relevant standing order 23 reads as under:

“23. Transfers:

Employees may be transferred due to the exigencies of work from one work, department, section or job to another, provided that the pay, grade, continuity and conditions of service of the employee are not adversely affected by such transfers and provided also that if an employee is transferred from one job to another, that job should be of similar nature and such as he is capable of doing.”

20. On the other hand, the contention of the respondent department is that on 24.03.2018 the applicant was transferred to Steel Melting shop. On his transfer in SMS-2 department, his service conditions have not been altered and he will continuously be governed under the same rules/regulations under which he was earlier governed. Neither his pay nor seniority or

promotion will also be affected adversely or altered by way of this redeployment.

21. So far his service condition is concern, that remains unchanged including seniority or promotion etc. and the applicant is not going to be affected adversely in any manner.

22. So far Standing order 23 is concern, the only rider for transfer is that the employees may be transferred due to the exigencies of work from one work, department, section or job to another, provided that the pay, grade, continuity and conditions of service of the employee are not adversely affected by such transfer and provided also that if an employee is transferred from one job to another, the job should be of similar nature and such as he is capable of doing.

23. In the instant case, the applicant is not going to be affected in any manner. The only rider that if an employee is transferred from one job to another, that should be of similar nature and capable of doing. The respondent department has taken care of this Standing





order 23, which is clear as per reply filed by the respondent department that initially the applicant was appointed as Sr. Technician cum Operative Trainees. However, when the expansion was taken place and man power was required in the new section, several employees have been taken from different divisions and redeployed in SMS-2 section on having found them suitable for the job there. On this count we do not find any reason to interfere with the orders of the respondent department.

24. In view of the above, the Original Application is dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member