

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A. 350/01235/2018  
M.A. 350/00971/2018

Date of order: 13.1.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Anindya Sil,  
PIS No. 122282 son of  
Late Ranjit Sil,  
Aged about 54 years,  
Presently posted at Registration Section F.R.R.O.,  
Kolkata - 20,  
Under MHA and residing at  
Plot No. SGR 4,  
Sarada Garden,  
Post Office - Bishnupur,  
Police Station - Bishnupur,  
District - South 24 Parganas,  
Pin Code - 743 503.



.... Applicant

- V E R S U S -

1. Union of India,  
Service through the Secretary,  
Ministry of Home Affairs,  
North Block,  
Central Secretariat,  
New Delhi - 110 001.
2. The Director,  
Intelligence Bureau,  
MHA, Govt. of India,  
35, S.P. Marg,  
New Delhi - 110 021.
3. The Joint Director,  
SIB Kolkata,  
Govt. of India,  
9/1, Gariahat Road,  
Post Office - Bullygunge,  
Kolkata - 700 019.
4. The Assistant Director/E,  
*hph*

SIB Kolkata,  
Govt. of India,  
9/1, Gariahat Road,  
P.O. Bullygunge,  
Kolkata - 700 019.

5. The Foreigners Regional Registration Officer,  
237, AJC Bose Road,  
Post Office L.R. Sarani,  
Kolkata - 700 020.

... Respondents

For the Applicant : Mr. P.C. Das, Counsel  
Mr. N. Roy, Counsel

For the Respondents : Mr. S. Paul, Counsel

**O R D E R (Oral)**

**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached this Tribunal in second stage litigation under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(i) An order directing the respondents to cancel, rescind, withdraw or set aside the purported speaking order dated 20.7.2018 since issued by passing the order of the Hon'ble Tribunal.

(ii) An order directing the respondents to cancel, rescind, withdraw or set aside the purported order/Memorandum being dated 23.2.2018, 2.4.2018 and 27.4.2018 being in contrary to the principles of justice.

(iii) An order to issue direction upon the respondents to cancel, quash and set aside the purported transfer order of the applicant by virtue of which the applicant has been transferred from the office of Kolkata to Mumbai and allow the applicant to rejoin his post and status and pay all arrears of due pay and allowances and also month by month.

(iv) An order directing the respondents to regularize the leaves taken by the applicant following 30.4.2018 till date so that the applicant is not deprived of leave salary benefit in the interest of justice.

(v) Seeking viable reply from competent authority on contribution towards IBRF.

(vi) Compensation in connection with legal expenditure due to litigation at your jurisprudence and for mental injury which affected his health being a diabetes and cancer patient.

(vii) An order directing the respondents to produce entire records of the case since lying within the jurisdiction of this Hon'ble Tribunal.

*h.s.b.*

(viii) Pass such further order or orders and/or direction or directions as this Hon'ble Tribunal may deem fit and proper."

2. Heard rival contentions of both Ld. Counsel, examined pleadings and documents on record.

3. Ld. Counsel for the applicant would submit that the applicant had joined SIB, Kolkata on 10.7.1989 as LDC. He was transferred to SIB, Siliguri on 12.6.1995, and, was promoted as UDC on 7.7.1995 after qualifying in the limited departmental competitive examination.

The applicant was again transferred to Kolkata and served therein till 1.7.2005. The applicant was, thereafter, transferred to SIB, Agartala on 14.7.2005, was retransferred to Kolkata on 2.8.2012, and, on 28.3.2016 joined as ASO, BOI, Kolkata.

The respondent authorities issued a transfer order on 23.2.2018, transferring the applicant from SIB, Kolkata to SIB, Mumbai. The applicant, thereafter, represented to the concerned authorities as both he and his spouse were affected with various health problems, but, as the respondent authorities failed to heed to such prayers of the applicant, and, being aggrieved, the applicant has approached the Tribunal in the instant O.A.

Ld. Counsel for the applicant, however, would fairly submit that the applicant has joined his transferred place of posting at Mumbai, and, that, he would be fairly satisfied if a direction is issued to the respondent authorities to dispose of his representation dated 23.6.2018 in a time bound manner.

4. We find, upon perusal of such representation dated 23.6.2018 at Annexure A-10 to the O.A., the applicant's mention therein that he had proceeded to resume duties on 22.6.2018 at BOI, Kolkata as per directions of this Tribunal. In his first stage litigation, however, the Tribunal had not gone into the merits of the case and had only directed

*h.e./*

disposal of representation of the applicant with the rider that till such representation is disposed of, the respondents are to allow the applicant to continue in his present place of posting.

Accordingly, as there are no mandatory orders of the Tribunal cancelling his transfer orders to Mumbai the applicant could only have rejoined at Kolkata upon specific orders of the respondent authorities. Hence, his representation dated 23.6.2018 is misconceived.

5. Both ld. Counsel would hence agree that the said representation having been largely rendered infructuous, the applicant may be provided with liberty to prefer a comprehensive representation to the concerned respondent authority.

6. Hence, without entering into the merits of the matter, we would grant liberty to the applicant to prefer such representation within four weeks of receipt of a copy of this order. In the event such representation is preferred, the concerned respondent authority shall examine the contents of the same in accordance with law and dispose of the same with a reasoned and speaking order within six weeks from the date of receipt of such representation.

Ld. Counsel for the applicant would further urge that the respondents may also be directed to consider the applicant's prayer to be accommodated against any existing vacancy at Kolkata, which, Ld. Counsel for the respondents would counter by claiming that all such posts having been filled up there is no vacancy to accommodate the applicant.

We would hence direct the respondent authorities to decide on accommodating the applicant at Kolkata, if rules permit, and if vacancies occur in such posts in near future.

*hch*

7. With these directions, the O.A. is disposed of. There will be no orders on costs.

8. M.A., filed by the respondent authorities, for deletion of name of respondent No. 1, who is the Secretary, Ministry of Home Affairs, Govt. of India is disposed of accordingly.



**(Dr. Nandita Chatterjee)**  
**Administrative Member**



**(Bidisha Banerjee)**  
**Judicial Member**



**SP**