

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00424/2017

Reserved on : 27.02.2020
Pronounced on: 28.02.2020

C O R A M

HON'BLE MR. S.N. TERDAL, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER



Vipul Raj, S/o Sri J.N. Sinha, resident of Mohalla- Kankarbagh, F-16 People's Co-operative Colony, District- Patna.

.... Applicant.

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Secretary, Indian Council of Agricultural Research, Ministry of Agriculture, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi- 110001.
2. The Director General, Indian Council of Agricultural Research, Krishi Bhawan, Dr. Rajendra Prasad Road, new Delhi- 110001.
3. Shri Ravi Chauhan, the Under Secretary (Admn.), ICAR, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi- 110001.
4. The Director, Indian Council of Agricultural Research Complex for Eastern region, ICAR Parisar, P.O.- Bihar Veterinary College, Patna- 800014.
5. Sri Alok Kumar, A.O. ICAR, ICAR Parisar, P.O.- Bihar Veterinary College, Patna- 800014.

.... Respondents.

By Advocate: - Mr. Gautam Saha

ORDER

Per Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for quashing the office order dated 21st July 2017 (impugned order) transferring the applicant from Motihari to Bhopal within 4 months of his earlier transfer to Motihari. He has also prayed for

allowing the applicant to continue at Patna in terms of Rule 14 of Service Rules for the Combined Cadre of Administrative Officers in ICAR 1975 (Ann. A/4) and on the strength of Office Order dated 28.12.15 (Ann. A/3) together with Office Order dated 03.04.2017 (Ann. A/7). He also requested for grant of interim relief of staying the operation of the impugned order. The prayer for interim relief was granted by this Tribunal's order dated 25.7.2017, extended from time to time.



2. Respondent no 5 (Alok Kumar, private respondent transferred in place of the applicant) filed a written statement stating that he had filed an OA earlier (OA/050/00201/2017), questioning his transfer from Patna to Bhopal. Following the decision of the Tribunal to quash this order, he has been posted to Motihari. This respondent has, however, conceded that he was a pro-forma party who will abide by the Tribunal's orders in this OA.

3. The official respondents have denied the claims of the applicant. Quoting the Hon'ble Apex Court judgment in **State of UP Vs Gobardhan Lal** [2004(11) SCC 402], they have questioned the jurisdiction and propriety of this Tribunal in entertaining such OAs against transfers. They have stated that disciplinary proceedings are initiated against the applicant for various acts of misconduct (in 2002) and penal action against him has been subject to prolonged litigation before the CAT and the Hon'ble High Court. There are other disciplinary cases of gross misconduct (2001/2002) against the applicant for which he has been punished in the year 2015. Since there had been a series of vigilance



cases, assigning independent charge to the applicant at a newly created institute was not a good move and it was felt necessary that he should work under the supervision of some superior officer. However, since it was found that a number of officers, including the applicant, were working at a place where there was no sanctioned post, they had to be transferred out. Following the decision of the CAT, Patna in OA/050/00164/2017, the competent authority sympathetically decided to continue the applicant for a period of one year, and later, he was posted to the newly created post and the institution at Motihari by order dated 03.04.2017. The applicant did not join there. In compliance of the orders of this Tribunal in OA/050/00201/2017, respondent no. 5 Alok Kumar had given three options for posting and has accordingly been posted at Bengaluru on 4.12.2017. It is stated that the transfer of applicant from Motihari to Bhopal and of Respondent no 5 from Bhopal to Motihari has been on account of series of vigilance cases/ penalties imposed against him which make it undesirable for a person like him to be posted at a newly established institute where lots of procurement etc. is likely to be made, and therefore it is decided to post him at an institute where his work is scrutinised at a level higher to him. It is also stated that following the order of the CAT dated 25.7.2017, the status quo is maintained vis a vis posting of applicant at ICAR Residential Complex of Eastern Region Patna.

4. A series of rejoinders and replies of rejoinders have been filed denying the claims and counter claims made by the parties. In summary, while the applicant denies any wrongdoing or indiscipline on his part and claims to have outstanding ACRs, the respondents have stuck to their stand regarding the undesirability of posting him at an independent level at a newly created institution and justified the transfer on the ground of the acts of past misconducts and punishments.



5. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. We are in full agreement with the arguments of the learned counsel for the respondents that this Tribunal should not normally interfere in the postings and transfers made on administrative grounds since the employer knows best where to put an employee to its best use. However, the Tribunal will be failing in the duty entrusted with it by the Administrative Tribunal's Act, if it failed to intervene in cases where there is obvious arbitrariness or a total lack of justification leading to a suspicion of extraneous considerations or mala fides in an action ostensibly taken on administrative considerations. In the present case, the undisputed facts are that the applicant was transferred from Patna to Ludhiana on 27th March 2017 (Ann. A/5)., later modified, on 3.4.17, from Patna to Motihari (Ann. A/7); and again transferred, on 21.7.17, from Motihari to Bhopal (Ann. A/10). It is also not denied that there was an OA filed by the applicant against his transfer to Ludhiana (OA/050/00202/2017) in which the respondents filed a written

statement (Ann. A/8) praying for dismissing the OA on ground that they have retained applicant in an institute located in Bihar itself. A transfer to Bhopal (on 21.7.17), after that OA was dismissed as infructuous, on grounds which were as much available on the day (3.4.17) he was transferred to Motihari, and also on the day the written statement was filed before us praying for dismissing the applicants earlier OA, leave us in no doubt about arbitrariness of action in this case. Hence, while expressing our displeasure at such a blatant act, we, hereby, quash the impugned order dated 21.07.2017, with respect to the applicant. The respondents will, however, be at liberty to keep him in Patna or at Motihari, depending on the availability and his suitability for the job. They will also be free to post him elsewhere, in future, keeping in account their own rules and regulations about transfers and posting of their staff.



6. The OA is disposed of accordingly. No costs.

[Dinesh Sharma]
Administrative Member
Srk.

[S.N. Terdal]
Judicial Member