

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1897/99

199

T.A. No.

(11)

DATE OF DECISION 3-5-2000

Sh.P.K.Mandal

....Petitioner

Sh.Rajinder Nischal

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

Sh.D.S. Jagotra

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan ;
Member (J))

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA No.1897/1999

New Delhi this the 3rd day of May, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

P.K.Mandal,
Under Secretary,
Staff Selection Commission,
CGO Complex, Lodi Road,
New Delhi.

.. Applicant

(By Advocate Sh.Rajinder Nischal)

Versus

1. Union of India,
through Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Chairman,
Staff Selection Commission,
CGO Complex, Lodi Road,
New Delhi.
3. Regional Director(ER),
Staff Selection Commission,
Old Assembly Building,
5, Esplanade Row West Calcutta.

.. Respondents

(By Advocate Sh.D.S. Jagotra)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant has filed this application for a direction to the respondents that his transfer from Calcutta to New Delhi should be treated in public interest with all consequential benefits.

2. The applicant had been admittedly given an amount of Rs. 30,000/- as Transfer Advance (TA) which has been recovered by the respondents. The Tribunal in its order dated 31.8.1999 had in the circumstances of the case, rejected the plea for interim relief against the recovery of the TA/DA advance.

3. Shri Rajinder Nischal, learned counsel for the applicant has submitted that by Office Order dated 11.6.98 the applicant was transferred from SSC Calcutta to SSC Hqrs, New Delhi, against which post one Shri S.Mahapatra, Section Officer, was transferred vice versa. In that order, it has been mentioned that Sh.S. Mahapatra, SO is to move first. The applicant was admittedly

given as TA of Rs.30,000/-which is mentioned in the Office order dated 15.12.1998 issued by the SSC, Calcutta. In this order, it is stated that the applicant, Sh.P.K.Mandal, Under Secretary, is relieved of his duties in the SSC(ER) Calcutta w.e.f. the afternoon of 15.12.1998 with a direction to report for duty to the SSC, (Hqrs), New Delhi. Learned counsel for the applicant has drawn my attention to the note below this order in which it has been, *inter alia*, stated that as nothing was done to the contrary, the transfer of the applicant was deemed to be in public interest and accordingly T.A. of Rs.30,000/-was sanctioned and paid to him as per his request. According to the applicant, he had made the request to the respondents by letter dated 10.11.97, copy placed at Annexure R-1, for his transfer from Calcutta to New Delhi because of ~~his~~ various difficulties, he was facing at Calcutta, which was under consideration with the respondents. According to him, it was only at the request of Shri S.Mahapatra, SO, who had also made a similar request for transfer from New Delhi to Calcutta by order dated 11.6.98. He has, therefore, submitted that the respondents cannot treat the transfer of the applicant from Calcutta to New Delhi as if it was on his own request/~~was~~ and it to be treated in public interest.

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4. The respondents have controverted the facts. I have also heard Shri D.S. Jagotra, learned counsel for the respondents. Learned counsel has submitted that the applicant has suppressed certain relevant facts with regard to his own request for transfer from Calcutta to New Delhi through his aforesaid application dated 10.11.1997. Shri Jagotra, learned counsel, has also referred to the subsequent application made by the applicant on 28.8.98 which refers to an earlier application/representation dated 13.7.98. In this representation, the applicant has stated that he has no alternative but to proceed to Delhi on transfer/^{even} if transfer TA could not be sanctioned to him etc. Learned counsel has, therefore, submitted that as per the relevant Rules, since the transfer order dated 11.6.98 has been passed by the respondents at the request made by the applicant and the other concerned officer, he cannot be

granted TA. Learned counsel, has, therefore, prayed that the OA may be dismissed.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. From the documents on record and the facts mentioned above, it cannot be categorically stated that the applicant had not made any request to the respondents to transfer him from the Calcutta Office to/New Delhi Office. He has done/in his application dated 10.11.97. Shri Rajinder Nischal, learned counsel, has contended that because of the intervening period when the respondents have not taken any decision on his request for transfer from Calcutta to/New Delhi Office, and thereafter when the decision was taken at the request of Shri S.Mahapatra who had also requested for transfer from Delhi to Calcutta, the applicant should not be penalised by way of denial of grant of transfer TA. There is no doubt that there is some delay in the processing of the request of the applicant for consideration/from the office at Calcutta to New Delhi Office. However, it may not be possible for the respondents to take a ~~per~~ decision based on such request immediately, and the action of the respondents in this case cannot be, therefore, held to be unduly delayed or arbitrary justifying any interference in the matter. The respondents have stated that after receipt of the request of Sh.S.Mahapatra who was also pressing for transfer from Delhi to Calcutta, they had taken a decision in the matter, and that the transfer order was issued at the request of the concerned officials and not in public interest. Even subsequently, by the representation dated 28.8.98, it is noticed that the applicant has pressed for being relieved from/Calcutta Office immediately, even on the basis of not getting any ~~transfer~~ T.A. He has given various reasons as to why he needs the transfer to New Delhi as soon as possible and has requested that he may be relieved from the Calcutta office immediately. This letter dated 28.8.98 read with the transfer order dated 11.6.98 also shows that the applicant had been pressing for being relieved from the Calcutta office and had

urged that Sh. S.Mahapatra, SO, SSC Headquarters Office, may be relieved immediately so that he can move towards Delhi as per the terms and conditions mentioned in the transfer order. (15)

It is relevant to note that at that time also, the applicant had not pressed for ~~transfer~~ TA, on the ground that the transfer in question should be treated in public interest, and it cannot, therefore, be accepted now as it appears to be an afterthought.

7. In the facts and circumstances of the case, I find no merit in this case and the OA is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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