

**Central Administrative Tribunal
Principal Bench, New Delhi**



OA No.1798/2020

Today this the 17thday of November, 2020

Through video conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Manmeet Singh Ahluwalia
Aged 37 years,
S/o Shri Ashok Singh Ahluwalia
Deputy Commissioner,
CGST & CX (Audit)
Jodhpur Commissionerate
Jodhpur.

Currently retaining quarter at
Qr. No.A-2-D, Type-IV, Central Government
Residential Quarters, VATika Apartments,
Mayapuri, New Delhi 110 064. ...Applicant

(Mr. Dalip Singh, Advocate)

Versus

1. Union of India
Through the Secretary
Department of Revenue
Ministry of Finance,
North Block,
New Delhi 110 001.
2. The Chairperson
Central Board of Indirect Taxes
and Customs
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi 110 001.
..Respondents

(By Mr. Risabh Sahu, Advocate)

Order (Oral)



Justice L. Narasimha Reddy:

The applicant is an IRS Officer of 2012 batch. While he was working at an office in Delhi, he was transferred to the one at Jodhpur vide order dated 22.10.2019. He was also relieved from office on 19.11.2019.

2. Aggrieved by that, he filed OA No.3372/2019 before this Tribunal. It was disposed of on 22.11.2019 directing that in case the applicant joins the duty at Jodhpur, he may make a representation ventilating his grievance and the 2nd respondent therein shall pass speaking order within a period of three weeks from the date of receipt of the same. The applicant joined the duty at Jodhpur and made a representation on 09.12.2019. After narrating various facts, he stated that the order of transfer be withdrawn or in alternative his family be permitted to remain in the official accommodation at Delhi till May, 20219. On consideration of his representation, an order was passed on 09.01.2020 refusing to accede to the request for retention of the quarter and it was mentioned that he has two months to vacate it and the quarter must be vacated by 19.01.2020.

3. This OA is filed challenging the order of transfer dated 22.10.2019 and the relieving order dated 19.11.2019. He has



also sought for a declaration that the order dated 08.01.2020 issued in compliance of the directions of this Tribunal is illegal and arbitrary and to set aside the same. The applicant further prayed for a direction to the respondents to amend the transfer/placement guidelines on the lines indicated by him.

4. The applicant contends that his transfer from Delhi to Jodhpur was totally unwarranted and in a way, vindictive also. He contends that the respondents have transferred him with malafide intention and the order of transfer deserves to be set aside. As regards the order dated 08.01.2020, the applicant contends that the representation was not considered in an objective manner.

5. We heard Shri Dalip Singh, learned counsel for the applicant and Shri Rishabh Sahu, learned counsel for the respondents.

6. There is a serious flaw in the present application. The applicant has already filed OA No.3372/2019 challenging the order of transfer dated 22.10.2019 and relieving order dated 19.11.2019. That was decided on merits and a direction was issued to the effect that in case the applicant makes a representation upon joining at Jodhpur, the same shall be considered by the 2nd respondent. However, in this OA, the applicant has chosen to challenge those very orders.



This is totally impermissible in law. If at all, anything the applicant can only challenge the order dated 08.01.2020. He cannot challenge the orders dated 22.10.2019 and 19.11.2019.

7. The direction issued in the OA reads as under:-

"Accordingly, we direct the applicant to immediately join his duty at the new place of his posting (Jodhpur) where he has been transferred. We, further, direct that after joining his duty, if the applicant submits a fresh representation before the respondents ventilating all his grievance the respondent no.2 shall consider his representation and shall pass a reasoned and speaking order within a period of three weeks from the date of receipt of a copy of this order."

Stating to be in compliance with the same, the applicant made the representation dated 09.12.2019. The concluding paragraph of the representation reads as under:-

"Therefore, in the light of the above, I would like to make the following submission before you. That is to either annul my transfer and post me back to my previous place of posting with full respect & dignity or allow my family to retain my present residential quarters at New Delhi till May 2019 by when my dependent sister's daughter's academic session will get over and consequently, I can make all necessary arrangements to take my family safely with me to Jodhpur."

From this, it is evident that the applicant has prayed for two alternative reliefs. The first is to recall the order of transfer and the other alternative is to permit his family to reside in the quarter in Delhi till May, 2019. The respondents passed the order dated 08.01.2020, which reads as under:-



"Order"

Whereas, Shri Manmeet Singh Ahluwalia, Empl. ID 2012/4424 (DOB 04.05.1983) was working as Deputy Commissioner, ICD Tughlakabad (Export), Delhi Customs Zone. During Annual General Transfer 2019, the officer was transferred and posted to Jaipur GST & CX Zone (at Jodhpur) vide Office Order No.143/2019 dated 22.10.2019.

2. And whereas, aggrieved by the transfer order of the department, the officer filed O.A. No.3372/2019 before Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi praying before the Hon'ble Tribunal to issue direction to CBIC to consider his representation dated 30.10.2019.

3. And whereas, Hon'ble Tribunal, vide Order dated 22.11.2019, disposed of the said O.A. with the following direction:

"8. Accordingly, we direct the applicant to immediately join his duty at the new place of his posting (Jodhpur) where he has been transferred. We further direct that after joining his duty, if the applicant submits a fresh representation before the respondent ventilating all his grievance, the respondent no.2 shall consider his representation and shall pass a reasoned and speaking order within a period of three weeks from the date of receipt of a copy of this order."

4. And whereas, Shri Manmeet Singh Ahluwalia has submitted a representation dated 09.12.2019 in pursuance of the Hon'ble CAT's aforementioned order dated 22.11.2019 requesting to annul his transfer to Jodhpur and post him back to his previous place of posting or allow his family to retain his present residential quarters at New Delhi till May 2019 by when his dependent sister's daughter's academic session will get over and he will make all necessary arrangements to take his family safely to Jodhpur.

5. And whereas, the representation of the officer has been considered and it has been observed that Shri Manmeet Singh Ahluwalia was transferred and posted to Jaipur GST & CX Zone (at Jodhpur) vide Office Order No.143/2019 dated 22.10.2019 on administrative ground. An officer cannot seek transfer or retention at a particular post and it is the duty of administration to decide representations of officers on case to case basis and post any officer at any place.

6. And whereas, the request of Shri Manmeet Singh Ahluwalia to allow his family to retain his present residential quarters at New Delhi till May 2019 has to be considered by the Appropriate Authority. Hence, the officer is advised to make his request to the Appropriate Authority.



7. Now, therefore, after examining the representation submitted by Shri Manmeet Singh Ahluwalia, it is concluded that the transfer of Shri Manmeet Singh Ahluwalia has been done on administrative ground and the contention of the officer are not tenable being devoid of any substance. Hence, the request of Shri Manmeet Singh Ahluwalia to annul his transfer to Jaipur GST & CX Zone (at Jodhpur) and post him to his previous place of posting in Delhi cannot be acceded to.

8. The representation of Shri Manmeet Singh Ahluwalia is accordingly disposed of in compliance of Hon'ble CAT, Principal Bench's order dated 22.11.2019 passed in O.A. No.3372/2019."

8. Across the Bar, it is stated that the year 2019, is a typographical error. Even if it is treated as 2020, the fact remains that the said period is over.

9. It is brought to our notice that certain procedures are initiated as regards the vacation of government accommodation. The Hon'ble High Court of Delhi held in several cases that the Tribunal does not have any jurisdiction in the matters pertaining to the official accommodation of the government servant.

10. We do not find any merit in the OA. The same is accordingly dismissed. It is hoped that the applicant who appears to be brilliant in the studies and career would not cause harm to himself by indulging in avoidable litigation.

There shall be no order as to costs.

(A. K. Bishnoi)
Member (A)
/pj/ns/ankit/sd

(Justice L. Narasimha Reddy)
Chairman