

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD**

Allahabad, this Monday, the 05th day of October, 2020

Original Application No. 330/00514/2020
(U/S 19, Administrative Tribunal Act, 1985)

Present:

Hon'ble Mrs. Justice Vijay Lakshmi, Member-J
Hon'ble Mr. Navin Tandon, Member-A

Anand Kumar aged about 53 years, S/o Chote Lal, R/o 17A/12E, Lane No.6, Ganga Nagar, Rajapur, Pryagaj.

.....Applicant.

By Advocate – Shri Sameer Srivastava.

V E R S U S

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, Govt. of India, New Delhi.
2. The Principal Chief Commissioner (Cadre & Controlling Authority), Central Goods and Service Tax and Central Excise, Lucknow.
3. The Commissioner CGST & Central Excise, Allahabad.
4. The Joint Commissioner (P&V), CGST & Excise, Allahabad.

.....Respondents.

By Advocates : Shri N.P. Shukla

O R D E R

Delivered by Hon'ble Mrs. Justice Vijay Lakshmi, Member-J :

We have joined this Division Bench online through video conferencing.

2. Heard Shri Sameer Srivastava, learned counsel for the applicant, who is present online and Shri N.P. Shukla, learned counsel for the respondents, who is present in court.

3. By means of this OA, the applicant has prayed to quash the transfer order dated 08.11.2019 whereby he has been transferred from Allahabad to Lucknow. Learned counsel for the applicant has submitted that although earlier the applicant had given his consent for his transfer to Lucknow zone but suddenly the physical condition of his mother got deteriorated due to heart problem and his wife also became ill because of depression. Moreover, in the present scenario, due to Covid-19, the applicant is unable to move from Allahabad to Lucknow, with his ailing mother and wife. Therefore, it has been prayed that the impugned transfer order be stayed till the year 2022, so that the situation which has arisen due to pandemic Covid-19, is normalised.

4. Learned counsel for the respondents has vehemently opposed the prayer on the ground that already a long time has elapsed since the transfer order dated 08.11.2019, has been passed. It is vehemently contended that as per well settled legal position, the transfer being an incidence and a condition of service, the courts should be reluctant to interfere in transfer orders. It is further contended that there is no allegation of any malafide rather the applicant had given his consent for it. His transfer is not punitive and several other persons have also been transferred by the same order alongwith the applicant and all of them have already joined their new place of posting. It is next contended that the wife of the applicant is doing job, so it can not be said that she under so much depression that she is unable to move, and the mother

can go to Lucknow with the applicant, where better medical facilities are available than Allahabad.

5. Learned counsel for the respondents has placed reliance on judgements of Hon'ble Supreme Court rendered in S.C. Saxena vs UOI (2006 (9) SCC 583), Rajendra Kumar Singh vs State of UP (2009 (15) SCC 178) and Union of India & ors. Vs. S.L. Abbas 1993 AIR 2444, to contend that the transfer orders should not be interfered by the Tribunals, and the applicant should move first on transfer and to make representation only after joining the new place of posting.

6. On the aforesaid grounds, Id.counsel for the respondents has prayed that the relief claimed cannot be granted to the applicant and the OA be dismissed.

7. The arguments advanced by Id.counsel for the respondents have substance. In view of the well settled legal position, regarding transfer, that the courts should not interfere in the order of transfer, where it is not punitive and where no malafide has been alleged, the OA appears to be meritless and the relief claimed cannot be granted to the applicant. Accordingly, the OA is liable to be dismissed at the admission stage and it is dismissed.

8. No order as to costs.

9. Hon'ble Shri Navin Tandon, Member (Administrative) has consented to this order during video conferencing.

(Navin Tandon)
Member(Administrative)

(Justice Vijay Lakshmi)
Member(Judicial)

RKM/