

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday, 21st day of July Two Thousand And Twenty

PRESENT:

THE HON'BLE SHRI S.N. TERDAL, MEMBER(J)
THE HON'BLE SHRI C.V. SANKAR, MEMBER(A)

O.A.310/350/2020

K.S. Elango,
S/o. (late) S.K. Subramaniam,
No. 66, 3rd Avenue,
D.A.E Township,
Kalpakkam,
Kancheepuram- 603 102
(Scientific Officer-C, SO/C,
ESG, GSO)

.....Applicant

(By Advocate: Mr. R. Malaichamy)

Vs.

1. Union of India, Rep. by
The Director,
General Service Organization (G.S.O.),
Department of Atomic Energy (D.A.E.),
Kalpakkam,
Kancheepuram District,
PIN-603 102;
2. The Chief Administrative Officer,
General Service Organization (G.S.O),
Department of Atomic Energy (D.A.E.)
Kalpakkam,
Kancheepuram District,
PIN-603 102;

3. The Administrative Officer-III,
General Service Organization (G.S.O),
Department of Atomic Energy (D.A.E.),
Kalpakkam,
Kancheepuram District,
PIN-603 102;
4. The Medical Superintendent
Department of Atomic Energy (DAE) Hospital,
Kalpakkam,
Kancheepuram District,
PIN-603 102;
5. The Project Engineer, Mechanical,
RM & UD,
Engineering Service Group,
General Service Organization (GSO),
Department of Atomic Energy (DAE),
Kalpakkam,
Kancheepuram District,
PIN-603 102.

...Respondents.

(By Advocate: Mr. Su. Srinivasan, Sr.CGSC)

ORDER

(Pronounced by Hon'ble Mr. S.N. Terdal, Member(J))

The applicant has filed the present OA seeking the following reliefs:-

“i) To call for the records of the 3rd respondent pertaining to his order which is made in Ref.:GSO/3(51128)/2020/Admn/700 dated 11.06.2020 and set aside the same; consequent to, ii) direct the respondents to re-post the applicant in anyone of the wing of Medical Laboratory attached with G.S.O., D.A.E., Kalpakkam; iii) To pass such further orders as this Hon'ble Tribunal may deem fit and proper.”

2. Heard Mr. Malaichamy, Learned counsel for the applicant and Mr. Su. Srinivasan, appearing for the respondent Nos. 1 and others on advance notice.

3. Perused the OA and all the documents.

4. This is a second round of litigation against the transfer Order dated 21.02.2020. Earlier the applicant had filed O.A. No.285/2020. The said OA was disposed of by this Tribunal by order dated 06.03.2020 directing the respondents to consider the representation of the applicant and pass a reasoned and

speaking order in the light of the relevant service rules. The respondents have now passed this impugned order dated 11.06.2020 which is challenged in this OA with averments and grounds stated in paras-iv & v of the OA which are extracted below:-

"iv. It is submitted that the transfer and posting of the applicant from Medical Service to Engineering Wing is nothing but a punitive transfer on the reason that the applicant has approached this Hon'ble Tribunal challenging the call duty system adopted in G.S.O. of the respondents Organization. Therefore, the order dated 21.02.2020 issued by the 3rd respondent is liable to be set aside by this Hon'ble Tribunal.

v. It is submitted that the applicant has been transferred to ESG by way of punitive transfer to degrade the APAR grading and also to deny promotion(s), since he has filed OA before this Hon'ble Tribunal challenging call duty system."

5. We have perused the impugned order dated 11.06.2020 which is extracted below:-

"Government of India
Department of Atomic Energy
General Services Organization

Kalpakkam-603102

Ref: GSO/3(51128)/2020/Admn/700

June 11, 2020

Sub:OA 235/2020 filed by Shri K.S. Elango, SO/C, GSO- Order dated 06.03.2020 of the Hon'ble CAT, Madras Bench – Disposal of representation dated 29.02.2020- regarding.

Shri K.S. Elango, Scientific Officer/C, Engineering Services Group, General Services Organization (GSO) had filed an OA bearing no. 285/2020 before the Hon'ble Central Administrative Tribunal, Madras Bench praying for orders to re-post him to any one of the wings of Medical Laboratory attached to DAE Hospital, Kalpakkam. Upon submission by Shri Elango to that effect, the Hon'ble Tribunal, vide its order dated 06.03.2020, had directed the Competent Authority to consider his representation dated 29.02.2020 in the light of relevant rules and regulations and, pass a reasoned and speaking order, within a period of three months from the date of receipt of copy of the order. The order of Hon'ble Tribunal was received in this office on 16.03.2020.

2. Shri Elango, vide his letter dated 29.02.2020 tracing his career growth in the Department from his appointment in the initial Grade of Scientific Assistant /B states that he has been discharging his duties with sincerity and devotion. It has been stated that he was transferred from DAE Hospital as he did not wish to attend call duty, which he submits was affecting his health and personal life. He further submits that his present duties are not relevant to his field of experience and requests to be posted at Medical Laboratory or in the work place where he was working previously.

3. In compliance with the Orders of the Hon'ble Tribunal, the representation dated 29.02.2020 of Shri Elango has been carefully considered and is disposed of as given herein below:-

I. Shri Elango, Scientific Officer/C, joined GSO on 30.04.2012 on being transferred on personal grounds from Heavy Water Plant, Manuguru. He was posted in the Pathology Laboratory of the DAE Hospital, Kalpakkam;

II. The DAE Hospital caters to the medical requirements of around 27,000 beneficiaries who include past and present employees of DAE unit and their family members. The hospital also has limited in-patient ward, casualty and emergency wards. There is no gain saying that the laboratory is on the front line for early detection of medical complication and its treatment. Therefore, disciplined and motivated employees are required to be deployed.

III. Complaints of harassment of the nature of both sexual and otherwise were received against Shri Elango from a few of the employees of Pathology Laboratory, where he was posted. In compliance with the existing statutory provisos under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the complaints were forwarded to the Internal Complaints public places in GSO, for further inquiry. The Inquiry report of the Committee is awaited.

IV. Pending inquiry, in order to maintain unfettered operations of the Laboratory, conduct impartial inquiry and to provide relief to the complainants and within the relevant statutory provisions, Shri Elango was transferred, without change of headquarters, to Engineering Services Group, GSO, vide order No. GSO/3(51128)/2020/Admn/320, dated 21.02.2020.

V. Considering the sensitivity of the issue and since, the transfer was for administrative requirements, no reasons

were provided in the transfer order. Further as Shri Elango may be aware, government service carries with it a liability to serve in any part of India and Government is well within its right to post employees, as per exigencies of official duties. Besides, Shri Elango has been given responsibilities in ESG commensurate with his grade and his field of experience.

VI. As regards biometric attendance, the same has been updated.

VII. In order to allow an impartial inquiry, the need for disciplined and motivated employees at the Pathology Laboratory the transfer request of Shri Elango cannot be considered for the present.

4. This is issued with the approval of Director, GSO.

(K.V. Madhavadas)

Administrative Officer-III

Shri K.S. Elango, SO/C
C.No. 51128/ESG(MMS) through: Director, ESG, GSO
GSO, Kalpakkam

Copy to:

1. O/o. Director, GSO;
2. O/o. Director, Medical Group,
3. O/o. Director, ESG & Associate Director, MG
4. Medical Superintendent, DAE Hospital.

6. After considering the submissions made by both the counsel, in our view and in view of the facts and circumstances narrated, the impugned order dated 11.06.2020 is a cogent, considered, reasoned and speaking order and does not require our interference. Hence the OA is dismissed. However, in case

the applicant's seniority or promotion is affected by this transfer order, he may seek remedies as per law. No costs.

(C.V. SANKAR)
MEMBER(A)

(S.N. TERDAL)
MEMBER(J)

21.07.2020

Asvs