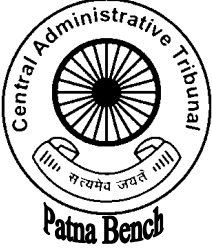


**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00284/2020**  
**With**  
**MA/050/00109/2020& MA/050/00098/2020**

Reserved on: 01/10/2020  
Pronounced on: 21/10/2020

**C O R A M**

**HON'BLE MR. M.C. VERMA, JUDICIAL MEMBER**  
**HON'BLE MR. SUNIL KUMAR SINHA, ADMINISTRATIVE MEMBER**



Y. Neelakantham, Son of Late Y. Gurumurthy, Assistant Director General, India Tourism, Government of India, Ministry of Tourism, Kranti Marg, R. Block, Patna, Pin Code- 800001 (Bihar).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. Union of India through the Secretary (Tourism), Government of India, Ministry of Tourism, Transport Bhawan, 1- Parliament Street, New Delhi- 110001.
2. The Regional Director (East), India Tourism, Government of India, Ministry of Tourism, 4, Shakespeare Sarani, Embassy Building, Kolkata- 700071.
3. Shri Vibhava Tripathi, Assistant Director General, DO Division, HQ'RS Estt., Government of India, Ministry of Tourism, parliament Street, Transport Bhawan, New Delhi- 110001.

.... Respondents.

By Advocate(s):- Mr. H.P. Singh, Sr. Standing Counsel for official respondents.  
Mr. J. K. Karn for Pvt. Respondent No. 3

**ORDER**  
**[ Heard through Video Conferencing ]**

**Per S.K. Sinha, A.M:-** The applicant aggrieved by his transfer order, as stated to be premature has preferred this OA praying for following relief(s) under para 8 :-

“8.1            That your Lordships may graciously be pleased to quash and set aside the impugned order dated 01.06.2020 as contained in

Annexure- A/4 passed for the Respondent No. 1 qua the applicant and respondent No. 3.

8.2 That your Lordships may graciously be pleased to direct/command the Respondents to allow the applicant to continue at Patna without any disturbance or post him at Port Blair in view of his request so submitted vide Annexure A/5 Series.

8.3 Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the Applicant.

8.4 That your Lordships may graciously be pleased to quash and set aside the order dated 13.07.2020 as contained in Annexure-A/9. [added in pursuance of order of this Tribunal dated 17.07.2020 passed in MA/050/00097/2020]"



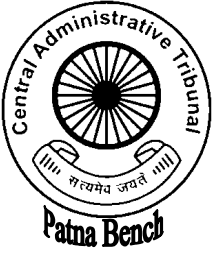
2. The applicant's case is briefly as under:

The applicant, a resident of Rangat in Andaman & Nicobar Islands and a 'Group A' officer in Ministry of Tourism (GoI), was posted as Assistant Director General (ADG), Indiatourism, Patna on 01.01.2019 and in less than one and half years he has been transferred from Patna to Indiatourism, Jaipur as ADG vide the Ministry of Tourism office order dated 01.06.2020 (Annexure A/4). Prior to his posting as ADG, Indiatourism, Patna, the applicant worked at Delhi headquarters from 14.09.2018 to 1.1.2019 and before that he had been working as Director/Assistant Director General, Port Blair. While posted at Patna, the applicant had gone to Andaman & Nicobar Islands on 21.03.2020 to see his ailing mother and continued there in view of the lockdown due to Covid-19. While he was in Andaman & Nicobar Islands, he learnt about the office order dated 1.06.2020 transferring him from Patna to Jaipur. The applicant sent representations to Respondent No. 1 (Secretary



Tourism) on June 3, 2020 and July 2, 2020 requesting to cancel his transfer to Jaipur and post him instead to Port Blair in view of his mother's ill health and children's education. He returned to Patna on 9.7.2020 when the flight services were resumed and getting no response from the Respondents on his request, he filed the OA challenging the Ministry's order dated 1.6.2020 (Annexure A/4). The applicant has impugned the transfer order on the ground that he has not completed the three years tenure at Patna and that his transfer was arbitrary and without any public interest involvement. The applicant has argued that his premature transfer vide the impugned order was in violation of the guidelines of Ministry of Tourism for transfer/posting (OM dated January 27, 2014 - Annexure A/8) which was issued in compliance with the judgement of Hon'ble Supreme Court in the case of TSR Subramanian and others Vs. Union of India (Annexure A/7) and the related direction of DoP&T.

3. Respondents did contest the matter and filed reply. In the written statement, Official Respondents pleaded that the applicant had joined the Ministry of Tourism as Assistant Director (Group 'B' Gazetted post) in April, 2001 and served at Indiatourism offices at Guwahati (April 2001- December 2001), Andaman & Nicobar Islands (December 2001 - April 2007), Delhi (April 2007- July 2011) and Andaman & Nicobar Islands (July 2011 – January 2013) before he was posted to Singapore based office of Indiatourism. On return from

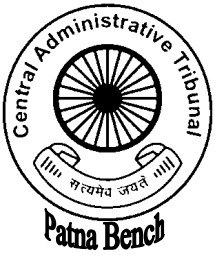


Singapore in July, 2015 he was again posted to Andaman & Nicobar Islands where he continued till September, 2018 and was shifted to Delhi on promotion to the Grade of Assistant Director General under Group 'A'. The applicant had given willingness for posting to Indiatourism overseas offices and appeared for the written test on 14.11.2018 and before the selection committee for interview on 15.11.2018, however, he was not found suitable at that time. These facts show that the applicant does not have any genuine issue involving his family at Andaman & Nicobar Islands and also that he has not been subjected to any harassment by the Directorate/Ministry. The plea that Patna is closer to his native place than Jaipur does not hold ground as none of the two places have direct flight to Andaman & Nicobar Islands. A government order, unless it specifically mentions to the contrary, is issued in public interest. Normally the transfer orders are not required to indicate the reasons for transfer and the impugned order was issued in the same spirit. The Secretary, Tourism had approved the proposal for the transfer of the applicant along with four others in accordance with transfer guidelines. Also, the law on transfers today based on the judgements of Hon'ble Supreme Court in several matters including **S. C. Saxena Vs. Union of India & others, Shilpi Bose vs State of Bihar**, and **State of UP Vs. Govardhan Lal** is well settled.



4. In the OA, the applicant has impleaded Shri Vibhava Tripathi, a Private Respondent, who has been transferred under the impugned order from DO Division , Delhi Headquarters to Patna as replacement of the applicant as Respondent No.3. The private respondent (Respondent No. 3) filed separate written statement (WS) and a Miscellaneous Application (MA No. 109/2020) in which he has pleaded that he has been posted as Assistant Director General in Ministry of Tourism at Delhi since November 2015. He worked in the Information Technology Division from November 2015 to April 2016, Planning & Coordination Division from May 2016 to August 2016 and Publicity Division of the Ministry from September 2016 to April 2020. He was shifted from Publicity Division to Domestic Office (DO) Division on 05.05.2020 and within one month he has been transferred to Patna vide the office order No.41/2020 dated 1.06.2020 which has been challenged by the applicant in the OA (Annexure A-1) . The impugned order is a chain of transfers involving five officers: The answering respondent (Respondent 3) has been transferred from DO Division New Delhi to Indiatourism Patna, Mr. Y. Neelakantham (Applicant in the OA) from Indiatourism Patna to Indiatourism Jaipur, Mr. Bharat Kashyap Sharma from SD Division, New Delhi to DO Division, New Delhi and Mr Karan Singh from Indiatourism Jaipur to Events Division, New Delhi. The decision of Ministry of Tourism to relive him from 05.08.2020 despite the interim order passed by the Tribunal on 24.07.2020 to maintain

status quo as regards the transfer of the applicant and its further extension has put him in a difficult situation. The Ministry further directed him through an email to join Indiatourism office, Patna and the work allocation at ITO Patna may be allotted by the Regional Director (East), Kolkata (Page 9 of MA No 109 / 2020). In the MA, answering respondent has prayed for staying the implementation of the e-mail sent to him on 26.08.2020 and to direct the official respondents to permit him to continue at Delhi till the OA is decided.



5. Needless to say this Tribunal on 24.07.2020 has passed an ad-interim order to maintain status quo qua the transfer order. The interim relief has since continued.

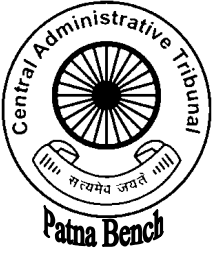
6. The matter, after admission, was heard for final adjudication.

7. Learned counsel for the applicant, during the hearing, urged that Hon'ble Supreme Court in the case of **T.S.R. Subramanian & Others Vs. Union of India**, directed the Union of India, Union Territories and all the States to ensure sanctity of posting tenures (Annexure A7). In pursuance of the Hon'ble Apex Court's direction, the Ministry of Tourism issued an OM dated 27.01.2014 laying down the 'Guidelines for Transfer/Posting & minimum tenure of officers of Directorate General of Tourism (DG Tourism) in the Ministry' (Annexure A/8). According to the guidelines, the minimum tenure for officers of the ranks of Assistant Director and above at domestic Indiatourism offices is three years and recommendation for their



transfer/posting is required to be made by a Committee with Additional Secretary (Tourism) as Chairman and comprising Additional DG (Tourism)/Joint Secretary (In-charge of Administration) and Dy. Secretary/Director (Administration) as Members. The Secretary, Tourism, Government of India has been designated as the competent authority to approve the recommendations of the committee. Transfer of any officer before completing the minimum tenure will be done in public interest on the recommendation of the above said Committee, but the reasons for the same will be recorded. The learned counsel further urged that the applicant has been transferred before expiry of three years tenure at Patna without any recommendation of the Committee stipulated in the guidelines. The Ministry's note sheet relating the proposal for transfer/posting which has been approved by the Secretary Tourism (Annexure R/1) bears no mention at all of the reasons for the applicant's premature transfer or the Committee's recommendation mandated in the guidelines. Thus, it is clear that the transfer order was issued in violation of the Ministry's guidelines for transfer/posting. The learned Counsel for the applicant further urged that the impugned transfer order involves shifting of five officers in the rank of Assistant Director General of which two have been shifted from one office to other in Delhi itself. Shri Uttam Joshi and Ms. Bharati Kashyap Sharma, i.e. No. 2 and 3 in the serial have been continuing in Delhi for the last more than 15 years moving from

one unit to another while the officer at sl. No. 1 in the impugned order (Annexure A/4) who has also been impleaded as respondent no. 3 in the OA has been ordered to be shifted from Delhi to Patna on completion of his stay at Delhi for 3 years. The applicant, at the same time, has been shifted prematurely in less than one and half years at Patna. These facts indicate that the transfer order was issued arbitrarily without any consideration to guidelines. Also, as there is no any record of the reasons for the premature transfer of the applicant, there can be no claim for public interest issue being involved in the matter.



8. Learned counsel for official respondents contending that OA is devoid of merit submits that a transfer order can be impugned only on three grounds – first, if it has been ordered by an authority without having the competence; secondly if it has been done with mala fide and thirdly if it is in violation of some statutory rights . None of these three grounds are applicable in the instant case. He further submits that as per settled law, the applicant first needs to join the place of transfer and then take recourse of legal remedy. The learned counsel questioned the maintainability of OA saying that the applicant did not wait for a reply to his representation and approached the CAT, Patna Bench without exhausting available remedies, though a reply rejecting his request was conveyed to him on 13.07.2020. The learned counsel for Respondents further submits



that the guidelines on transfer /posting issued by the Ministry of Tourism vide OM dated 27.01.2014 does not confer any statutory right even though it has been issued in pursuance of the judgement of the Hon'ble Supreme Court. He further states that the situation in 2013 when the guidelines on transfer/posting was issued by Ministry of Tourism were not the same as in 2020 and situation has undergone considerable changes particularly after the incidence of global corona pandemic. Tourism section has been badly affected and in order to boost the sector, the Department was required to take certain administrative measures in the exigency of work. He further contended that the other officers transferred vide the impugned order have joined their new places of posting but the applicant sought to approach the Tribunal. He mentioned that while the applicant was willing to go to Port Blair or on foreign assignments irrespective of his tenure at any place he is seeking legal remedy for his transfer to Jaipur.

9. On the issue of mala fide by the respondents, learned counsel for official respondents submits that the applicant has made no specific averment nor adduced any facts in support of mala fide by the respondents. The leaned counsel refers the note sheet (Annexure R/1) showing approval of Secretary (Tourism) to the proposal for the impugned transfer order which was in accordance with the transfer guidelines. He, however, concedes that there was

no formal recommendation of the committee in respect of the impugned transfer order nor any record of the reasons for premature shifting of the applicant .

10. The learned counsel for respondents refers to the Hon'ble Supreme Court judgement in **Shilpi Bose Vs. State of Bihar & others** reported in AIR 1991 SC 532 defining the limits of legal intervention in orders of administrative transfers as under:



“4. *In our opinion, the courts should not interfere with a transfer which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer is made in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer Orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders.*”

11. The counsel for official respondents further refers the case of **S.C. Saxena Vs. Union of India & Others** reported in (2006) 9 SCC 583 in which the Apex Court held that

*“... a Government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed...”*

12. The learned Counsel also refers **State of UP Vs. Govardhan Lal** reported in AIR (2004) SC 2165 wherein Hon'ble Supreme Court observed as under:

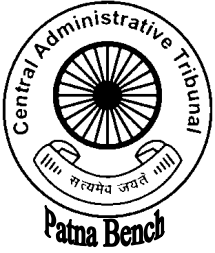


*“... Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot be lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot alos be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”*

13. Besides the above, learned counsel referred the CAT Patna Bench order dated 10.12.2019 in OA No. 050/00884/2019 ( Binod Kumar Dubey Vs. Union of India) and CAT Chandigarh Bench order dated 11.03.2020 in OA No. 060/718/2019 (Shaneel Rana Vs Union of India) in which the OAs challenging transfer orders were dismissed.

14. During the hearing, the learned counsel for **Respondent No. 3** clarifies that the answering respondent is not opposed to the OA and he is also not concerned with the outcome of the OA. His interest in the case is limited to his transfer to Patna vice Y. Neelakantham , the applicant in this OA. There is only one post of ADG, Indiatourism at Patna and the Tribunal passed an interim order on 24.07.2020 to maintain status quo qua the transfer of the applicant. Despite the interim order, he was relieved from the

Headquarters, New Delhi on 05.08.2020 and is being pressurized to join the office at Patna. His case is hanging in balance as he has been relieved from Delhi but he is unable to join the place of transfer because of the Court's order and consequently not getting salary etc.



15. Learned counsel for applicant, in his rebuttal of the respondents' arguments, averred that the instant OA has no relation with the case of State of UP Vs. Govardhan Lal or other cases referred to by counsel for respondents in which the spirit of judgements is to curb the tendency of government servants to seek legal interference to counter the transfer orders. The instant case was concerned with the adherence to the Ministry's policy guidelines dated 27.01.2014 which was issued in pursuance of the Supreme Court judgement in T.S.R Subramanian Vs. UOI. The learned counsel further mentioned that the note sheet approved by Secretary, Tourism (Annexure R/1 of Supplementary WS) clearly reflects that the impugned posting order was with complete disregard for the Ministry's guidelines on transfer/posting. He further pleads that relieving of Respondent no. 3 from Delhi on 05.08.2020 despite the interim order of the Tribunal was not only a coercive measure to pressurize the applicant but also contempt of the Tribunal. Earlier, the applicant had not objected to his premature transfer within four months from Delhi to Patna because of its closeness to Andaman & Nicobar Islands where he is required to visit periodically to see his

ailing mother. The present transfer from Patna to Jaipur takes him away from his native place and so he has approached the Tribunal. He referred to the judgement of Hon'ble Apex Court in Ramadhar Pandey Vs. State of UP and others passed on March 30, 1993 setting aside the judgement passed by the High Court and the impugned transfer order in view of the impending retirement of the appellant and the transfer order being devoid of any public interest.



16. The moot point in this case is whether the applicant's decision to seek legal remedy against the order of his transfer issued in violation of the Ministry's guidelines is justified or he should have first joined the place of transfer.

17. It is trite that an employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time. It is within the exclusive domain of the employer to determine as to at what place and for how long the services of a particular employee are required. There is a very little scope of judicial review by Courts/Tribunals against the transfer order and the same is restricted only if the transfer order is found to be in contravention of the statutory Rules or mala fides are established.

18. The law regarding interference of court in transfer of an employee is now well settled. The Hon'ble High Court of Himachal Pradesh, Shimla vide its judgement dated 04.09.2020 in CMP No. 3311 of 2020 (**Ghanshyam Dass Vs. State of Himachal Pradesh and**

**another)** has listed various decisions relating to the cases of transfer and summarized the findings of the Court in para 9 which reads as under:-

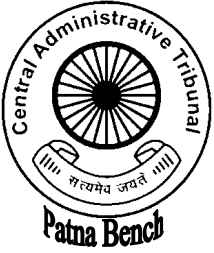


- “1. Transfer is a condition of service.*
- 2. It does not adversely affect the status or emoluments or seniority of the employee.*
- 3. The employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time.*
- 4. It is within the exclusive domain of the employer to determine as to at what place and for how long the services of a particular employee are required.*
- 5. Transfer order should be passed in public interest or administrative exigency, and not arbitrarily or for extraneous consideration or for victimization of the employee nor it should be passed under political pressure.*
- 6. There is a very little scope of judicial review by Courts/Tribunals against the transfer order and the same is restricted only if the transfer order is found to be in contravention of the statutory Rules or mala fides are established.*
- 7. In case of mala fides, the employee has to make specific averments and should prove the same by adducing impeccable evidence.*
- 8. The person against whom allegations of mala fide is made should be impleaded as a party by name.*
- 9. Transfer policy or guidelines issued by the State or employer does not have any statutory force as it merely provides for guidelines for the understanding of the Department personnel.*
- 10. The Court does not have the power to annul the transfer order only on the ground that it will cause personal inconvenience to the employee, his family members and children, as consideration of these views fall within the exclusive domain of the employer.*
- 11. If the transfer order is made in mid-academic session of the children of the employee, the Court/Tribunal cannot interfere. It is for the employer to consider such a personal grievance.”*

19. On the other hand, the Ministry of Tourism had issued guidelines for transfer/posting (Annexure A/8) in compliance with the judgement of Hon’ble Supreme Court in T.S.R Subramanian Vs

Union of India case. The Hon'ble Supreme Court in its Judgement dated 31.10.2013 in WP (Civil) No. 82/2011 (in the matter of Shri T.S.R. Subramanian & Other v/s UOI & Others) dwelt at length on the need for stability of tenure for the civil servants in the country and directed the Union, State Governments and Union Territories to issue appropriate directions. Para 30 and para 31 of the Order reads as

under:



*“30. We notice, at present the civil servants are not having stability of tenure, particularly in the State Governments where transfer and postings are made frequently at the whims and fancies of the executive head for political and other considerations and not in public interest. The necessity of minimum tenure has been endorsed and implemented by the Union Government. In fact, we notice, almost 13 states have accepted the necessity of a minimum tenure for civil servants. Fixed minimum tenure would not only enable the civil servants to achieve their professional targets, but also help them to function as effective instruments of public policy. Repeated shuffling/transfer of the officers is deleterious to good governance. Minimum assured service tenure ensures efficient service delivery and also increased efficiency. They can also prioritize various social and economic measures intended to implement for the poor and marginalized sections of the society.*

*31. We, therefore direct the Union, State Governments and Union Territories to issue appropriate directions to secure providing of minimum tenure of service to various civil servants, within a period of three months.”*

20. The Department of Personnel & Training (DoPT), GoI with a view to implementing the above judgement issued guidelines to all the Ministries and Departments vide its OM dated January 9, 2014. The Ministry of Tourism in pursuance of DOP&T's instructions issued guidelines for transfer/posting and minimum tenure of officers in the Directorate General of Tourism of the Ministry (Annexure A/8) as under :

Guidelines for Transfer/Posting & minimum tenure of officers of Directorate General of Tourism [DG (Toursim)] in the Ministry.

In pursuance of DOP&T's directions in compliance with the orders dated 31.10.2013 of the Hon'ble Supreme Court of India, the guidelines for transfer/posting and minimum tenure of officers in the Directorate general of Tourism of the Ministry are as follows:-

**"A. For Indiatourism offices abroad**

- (i) The minimum tenure for all posts – 3 years
- (ii) Committee to recommend the transfer/posting of officers in the grade of Asst. Director and below:-
  - a. Addl.DG (Tourism) - Chairman
  - b. Secretary/Director (Admn.) or equivalent - Member
  - c. Any other Dy. Secretary/Director or equivalent - Member
- (iii) Competent Authority to approve the recommendation for transfer/posting of officers in the grade of Asst. Director and
 

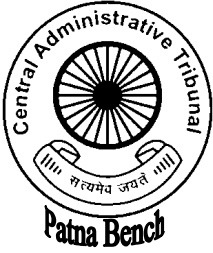
Below - Minister (Tourism)
- (iv) Committee to recommend the transfer/posting of officers in the grade of Asst. DG/Director and DDG/Jt. DG.Regional Director
  - a. Secretary (Tourism) - Chairman
  - b. Secretary (Tourism) - Member
  - c. Financial Advisor (Tourism) - Member
  - d. DG (Tourism) - Member
  - e. Secretary (Tourism) - Member
- (v) Competent Authority to approve the recommendation of the Committee for transfer/posting of Asst. DG/Director and
 

DDG/Jt. DG/Regional Director

- Minister(Tourism)/Appointment Committee of the Cabinet (ACC)

**B. For Domestic Indiatourism Offices and the Headquarter (New Delhi)**

- I. Minimum Tenure for the officers of Asst. Director and above – 3 years.
- II. Committee to recommend the transfer/posting of officers in the grade of Asst. Director and above:-
  - a. Addl. Secretary (Toursim) - Chairman
  - b. Addl. DG (Tourism) - Member
  - Jt. Secretary (In-charge of Admn.) - Member
  - c. Dy. Secretary/ Director (Admn.) - Member
- III. Competent Authority to approve the recommendations of Committee for transfer/Posting of Officers in the grade of Asst. Director and above - Secretary (T)
- IV. An officer shall be shifted to another location/division on promotion to the higher grade.
- V. The transfer of any officer before completing the minimum tenure will be done in the public interest on the recommendation of the Committee but the reasons for the same will be recorded."

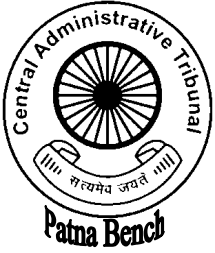




21. The above guidelines for transfer/posting are a means to ensure implementation of the principle of stability of tenure enunciated by Hon'ble Supreme Court for civil servants. While the guidelines provides freedom to the executive to pass any order of transfer/posting in the public interest or exigencies of service, its features limit the possibilities of arbitrary and whimsical transfer/postings. An transfer order issued in violation of the guidelines cannot be said to have been made in public interest. Non-conformity with the guidelines without any express reason suggests disregard of the executive towards the principle of stability of tenure. If the transfer policy or guidelines issued in compliance with the direction of Hon'ble Supreme Court is not observed, that too without any germane ground, then the principle of stability of tenure would lose its sanctity completely.

22. Required to examine the instant case in light of the two mutually exclusive principles and set of authoritative judgements, we see the Ministry's guidelines for transfer/postings issued in pursuance of the judgement of Honourable Supreme Court to implement the principle of stability of tenure as an enabling provision . The guidelines bestows the competence upon the executive for deciding transfer/posting of its officers. A transfer order in contravention of the guidelines cannot be claimed to involve public interest as the guidelines for transfer/posting itself has been

issued in larger public interest. Also, the executive issuing such an order lacks the requisite competence which is bestowed through the guidelines itself. A government servant must obey a transfer order issued by an authority with due competence and in public interest irrespective of his personal preference or convenience.

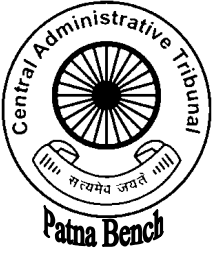


23. In the instant case, the Ministry of Tourism issued the transfer order showing disregard to its own guidelines for transfer/posting and minimum tenure. The applicant has been transferred within one and half years of stay at the present place of posting, whereas the normal tenure at Patna as per the guidelines is three years. The impugned office order does not specify any reason such as administrative exigency or public interest for transferring the applicant before completion of the normal tenure. The transfer order has also been made during the Covid- 19 period when there is general government instruction for everyone to avoid unnecessary movement. Further, it is also indisputable that the impugned transfer order is not based on the recommendation of the Committee constituted.

24. Based on above observations, we feel that the impugned transfer order qua the applicant and his replacement (Respondent No.3) lacks the public interest consideration and requisite competence. The impugned transfer order dated 01.06.2020 (Annexure A/4) and consequent relieving order dated 10.07.2020 are hereby

quashed and set aside and the OA to this extent is allowed. However, this order may not be an impediment for the respondents to issue fresh order as per norms of guidelines for transfer Policy, if warranted in public interest or administrative exigency.

25. This disposes of the OA and related MAs. No cost.



**[ Sunil Kumar Sinha ]**  
**Administrative Member**

Srk.

**[ M.C. Verma ]**  
**Judicial Member**