

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

**OA No./050/00291/2020**

**Due to COVID-19 Pandemic, case has been heard &  
decided through Video Conferencing**

**Date of order 17.09.2020**

**CORAM**

Hon'ble Shri M.C. Verma, Member [ J ]

Hon'ble Shri Sunil Kumar Sinha, Member [ A ]



Mrinal Shandilya, S/o Kumar Dinkar Shandilya, resident of Mohalla-Anand Mangal Bagh Bhup Singh Lane, Opposite Alamganj Chowki, Patna-7.

.....Applicant

**By Advocate : Shri Jayant Kumar Karn**

Versus

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi -110001.
2. The Controller General of Defence Accounts, Ulan Batar Marg, Palam, Delhi Cantt.-110010.
3. The Sr. Dy. Controller General of Defence Accounts, O/o of the Controller General of Defence Accounts, Ulan Batar Marg, Palam, Delhi Cantt.-110010.
4. The Sr. Accounts Officer (Administration), O/o Controller General of Defence Accounts, Ulan Batar Marg, Palam, Delhi Cantt.-110010.
5. The Controller of Defence Accounts (Patna), Rajendra Path, Patna-800019.
6. The SAO (AN) O/o the Controller General of Defence Accounts (Patna), Rajendra Path, Patna-800019.
7. The Accounts Officer (A/Cs), O/o the Controller General of Defence Accounts (Patna, Rajendra Path, Patna-800019.

Respondents

**By Advocate: Shri M.D. Dwivedi**

**O R D E R (ORAL)**  
**M.C. Verma, M [ J ]**



1. The applicant, an Assistant Accounts Officer in the office of the Controller of Defence Accounts at Patna, being aggrieved mainly by orders, namely, (i) Order dated 4<sup>th</sup> June 2020 (Annexure A/1) whereby relating to his Transfer order dated 25<sup>th</sup> February 2019 (Annexure A/3) it was decided to relieve him with immediate effect and to direct him to report for his office of new place assignment & (ii) Order dated 2<sup>nd</sup> July 2020 (Annexure A/2) whereby he has been relieved to report at Jabalpur has preferred this OA. Applicant, vide order dated 25<sup>th</sup> February 2019 (Annexure A/3) was transferred from Patna to Jabalpur and in instant OA he, in addition to aforesaid two orders, namely, dated 4<sup>th</sup> June 2020 (Annexure A/1) & Order dated 2<sup>nd</sup> July 2020 (Annexure A/2), has also impugned the Transfer order dated 25<sup>th</sup> February 2019 (Annexure A/3).

2. Applicant did plead in his OA that upon joining the service as Auditor, in year 2003, he was posted at Bhusawal where he remained till year 2009 and then he was transferred to Patna as SO. That after upgradation of post of SO, he, in November 2013 was transferred from Patna to Ranchi and thereafter in August 2018 he was



transferred from Ranchi to Patna as his old parents were residing at Patna. That he was having legitimate hope that he would continue at Patna at-least till expiry of normal tenure of three years, settled at Patna and got admitted his children in school. That presently his daughter is student of tenth class. That transfer of applicant is premature transfer and is contrary to transfer policy, he, showing his grievances made representations and deferment twice was allowed, that each time six months deferment was allowed by the Headquarter. That second deferment came to an end on 31<sup>st</sup> March 2020, however, due to covid-19 respondents had disbanded all transfer orders of CDA Staff so applicant was not relieved but suddenly, without taking final decision on his representation he was directed to be relieved vide Order dated 4<sup>th</sup> June 2020 (Annexure A/1) when situation of covid-19 was becoming from bad to worse every day, and he was relieved vide order dated 2<sup>nd</sup> July 2020 (Annexure A/2) to report at Jabalpur.

3. The prayer made in OA, reproduced verbatim, is as under:

*"[A] Letter No.:-AN/IB/113ICT/Vol-XLIV Dated 04.06.2020 issued under signature of SAO [AN] O/o The Controller of Defence Accounts [Patna],*

*as contained in Annexure-A/1, may be quashed and set aside, whereby the applicant has been ordered to be relieved with immediate effect with direction to report to his new place/assignment i.e. Jabalpur in terms of his transfer order dated 25.02.2019.*

*[B] Letter No.A/I/107/Vol-XI Dated 02.07.2020, issued under the signature of Accounts Officer [A/CS], O/o the Controller of Defence Accounts [Patna], as contained in Annexure-A/2, may be quashed and set aside, whereby the applicant has been relieved of his post.*



*[C] Letter No.AN/IX/9010/1/VOLUNTEET LIST – 10/18/TR to 362 Dated 25.02.2019, issued under the signature of Sr. Accounts Officer [Administration], O/o Controller of Defence Accounts, Ullan Batar Road, Palam, Delhi Cantt, as contained in Annexure-A/3, may be set aside, so far same relates to Serial No.-58 of its Annexure-B only, whereby the applicant has been ordered his abrupt and premature transfer from Patna to Jabalpur.*

*[D] The applicant may be ordered and permitted to continue at Patna in terms of Transfer Policy of the Department, as contained in Annexure-A/4, to enable the daughter of applicant to clear her Examination peacefully.*

*[E] Any other relief/reliefs as the applicant is entitled and your Lordships may deem fit and proper in the ends of justice.”*

4. Notice was issued on the O.A on 7/8/2020 and as advance copy of OA has been served to respondent's counsel and counsel for respondent did appear so notice was accepted by counsel for respondent and directing the respondent to file reply before next date fixed, matter was adjourned to 26/8/2020. No reply was filed till 26/8/2020.



5. On 26/8/2020 counsel for respondent, at commencement of hearing requested for further time of two week to file reply but when Counsel for applicant, Shri Jayant Kumar Karn Advocate stated at Bar that respondents have issued another letter dated 25.08.2020, disbanding all transfer orders of CDA Staff in last one year and showing said letter & referring its para-6, according to which the affected officials may make representation to the authorities, he made request to defer the case to enable the applicant to approach the respondents for relief, at that juncture Sr. Standing counsel for respondent made statement that respondent would decide any such representation at the earliest. For sake of brevity proceeding order dated 26/8/2020 is reproduced herein below :-

**"26.08.2020 -**

*Learned counsel for the applicant, Shri J.K.Karn submits that the respondents have issued a letter dated 25.08.2020, disbanding all transfer orders of CDA staff in last one year. He refers para-6 of the letter according to which the affected officials may make representation to the authorities. He requests to defer the case so that*

*applicant may accordingly approach the respondents for relief.*

*Learned Sr. Standing Counsel, Shri H.P.Singh submits that Shri M.D.Dwivedi, is the counsel for respondents in this case but could not join the VC due to some technical problem. Ld. Sr. Standing Counsel seeks two weeks' time to file reply. He submits that the respondents will decide, at the earliest, any representation as mentioned by the counsel for applicant."*



6. After 26/8/2020 matter came on Board yesterday and learned counsel Shri Karn informed that pursuant to letter dated 25.08.2020, whereby disbanding all transfer orders of CDA Staff in last one year has been directed, applicant on 31/8/2020 has preferred representation to the authorities and no decision yet has been taken. He also stated that daughter of the applicant is a student of Class-10 and it would be very difficult to arrange her admission in same class at Jabalpur and to shift to Jabalpur immediately with old parent in this situation of Covid, however in spite of all that if respondents is directed to decide the representations submitted by the applicant on 31.08.2020 and to dispose of the same applicant undertake that whatsoever may be decision of respondents on his representations dated 31.08.2020, applicant, without any objection would follow the outcome and would join his place of posting as would be directed after disposal of his said representation, within one month

from today or within ten days after disposal of his said representation, whichever is later. He urged that time frame may be fixed to decide said representation and OA may be disposed of.



7. Pursuant to above said submissions of counsel for applicant, counsel for respondents urged that he would take instructions from the respondents as to whether respondents are ready and willing to accede to and thereafter would inform the Tribunal whether applicant can be allowed or not to be stayed at Patna during the period taken for disposal of the representation and for further period of ten days thereafter. On request matter was adjourned for today.

8. Today learned counsel for respondents submits that previously more than one representation of the applicant have been considered and have been rejected. That applicant is in habit of giving representations again and again and the representation dated 31.08.2020, if is given, is also of same sequence. He also submits that applicant has already been relieved; he now is not the employee at Patna office so it would be difficult to allow him to resume/join duty at Patna. Counsel for applicant, at this stage, submits that it is incorrect that present

representation is of the same series, it relates to different ground envisaged in letter dated 25/8/2020 of the respondents for Covid-19 period. He also submits that previously twice applicant has been relieved and after allowing deferment of his transfer order he was allowed to resume duty at Patna so respondents unnecessarily are posing imaginary complications that after relieving it would be difficult to allow him to resume/join duty at Patna. He reiterating yesterday's submissions & the undertaking made request OA to dispose of the OA.



9. Considered above noted submissions & undertaking of applicant given at Bar as well pleading and surrounding backdrop facts; viz. previously transfer order dated 25.02.2019 has been deferred for a total span of one year, that pandemic of corona is still there and taking note of Covid-19 Respondent recently, on 25/8/2020, respondents has issued instruction relating to transfer, that applicant on 31/8/2020 has made a fresh request to respondents to cancel/defer his transfer as per instruction relating to transfer issued vide aforesaid letter dated 25/8/2020 and no decision /order on his representation dated 31.08.2020 has been passed.



10. The applicant has given undertaking that whatsoever may be the decision on his representation dated 31.08.2020, he would abide by that, would not agitate the matter and without any objection would follow the outcome and would join his place of posting, as would be directed in decision of his said representation, within one month from today or within ten days after disposal of his said representation, whichever is later. He needs only one month time, as a total period to be counted from today.



11. Having taken note of entirely and having hope that applicant would stick to his undertaking after disposal of his representation, we think it would be appropriate to dispose of this O.A, without waiting for formal W.S. by respondents and without entering into any intricate legal issue because the prayer of the applicant now is confined to one month time and for disposal of his representation only. However it warrants that some order qua reliving order be also passed because learned counsel for respondents has contended that the applicant already has been relieved, he now is not the employee at Patna office so it would be difficult to allow him to resume/join duty at Patna and refuting the same learned counsel for applicant took the plea that previously twice applicant has been

relieved and after allowing deferment of his transfer order he was allowed to resume duty at Patna.

12. In view of factual aspects and scenario discussed above relieving order dated 02.07.2020, impugned in the OA is quashed. Respondents are directed to allow the applicant to resume duty at Patna, applicant shall report to join duty in his Patna office either on tomorrow or on coming Monday (on 21/09/2020). Respondents are directed further to consider and pass a reasoned & speaking order on representation dated 31.08.2020 of the applicant at earliest possible but latest within three weeks. Needless to say that copy of the order so passed by respondents shall be supplied to the applicant forthwith. If outcome of the of representation of the applicant does not come in favour of the applicant, he would be relieved but not before the expiry of one month, to be counted from today.

13. With above said observations and directions, this O.A. stands disposed of. No costs. Any MA, if is pending, also stand disposed of accordingly.

**[Sunil Kumar Sinha] M [A]      [ M.C. Verma ] M [J]**

/mks/

