

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 351/00429/AN/2020

Date of order: 24.6.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri K. Kumaravel,
Son of M. Krishnan,
Aged about 45 years,
Residing at D-6/3, CPWD Quarters,
Lamba Line,
Port Blair,
Andaman & Nicobar Islands,
Pin – 744 130 and
Presently working to the post of
Assistant Director (Handicrafts) in the
Office of the Assistant Director (Handicrafts),
C-Block, 1st Floor,
Kendriya Sadan,
Lamba Line,
Port Blair,
Andaman & Nicobar Islands,
Pin – 744 103.

... Applicant

VS.

1. Union of India,
Service through the Secretary,
Government of India,
Ministry of Textiles,
Udyog Bhawan,
New Delhi – 110 011.
2. The Director (Handicrafts),
Government of India,
Ministry of Textiles,
West Block,
No. 7,
R.K. Puram,
New Delhi – 110 066.
3. The Development Commissioner (Handicrafts),
Government of India,

Ministry of Textiles,
 West Block,
 No. 7,
 R.K. Puram,
 New Delhi - 110 066.

4. The Assistant Director (Handicrafts),
 C-Block, 1st Floor,
 Kendriya Sadan,
 Lamba Line,
 Port Blair,
 Andaman & Nicobar Islands,
 Pin - 744 103.
5. The Regional Director (Director),
 HRQ,
 Chennai,
 Haddow Road,
 Chennai - 600 006.
6. Smt. Nirmala Devi,
 Residing at Villuthayambalam,
 Nagercoil,
 Kanyakumari,
 Tamil Nadu,
 Pin - 629 001
 And working to the post of
 Investigator and
 Post at HSC, Mysore.
7. Mr. Arun Kumar Yadav,
 Director (Handicrafts),
 Govt. of India,
 Ministry of Textiles,
 West Block,
 No. 7,
 R.K. Puram,
 New Delhyi - 110 066.

... Respondents

For the Applicant : Mr. P.C. Das, Counsel
 Ms. T. Maity, Counsel

For the Respondents : Mr. B.B. Chatterjee, Counsel

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ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved with the order of transfer from Port Blair to Hyderabad in purported violation of DoP&T Office Memorandum dated 30.9.2009, the applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with the following specific relief:

- "(a) To quash and/or set aside the impugned transfer order/order dated 15.6.2020 issued by the Director (Handicrafts), Government of India, Ministry of Textiles, West Block, No. 7, R.K. Puram, New Delhi – 110 066 by which your applicant has been transferred from Port Blair to Hyderabad in violation of the DOPT's Office Memo dated 30.9.2009 and in violation of the decision rendered by the Hon'ble Supreme Court in the case of TSR Subramaniam being Annexure A-10 of this original application.
- (b) To pass an appropriate order directing upon the respondent authority to comply the office memo dated 30.9.2009 issued Department of Personnel & Training, New Delhi regarding posting of husband and wife at the same station by considering the case of the present applicant a his wife is a Lecturer under Andaman and Nicobar Administration and both are working at Port Blair and they are Central Government employees and their son is studying in Class-X in KVS at Port Blair. The transfer of the applicant should not be made from Port Blair to Main Land and he may be allowed to continue to comply the DOPT's office memo dated 30th September, 2009.
- (c) Since the impugned order of transfer/order dated 15.6.2020 is issued only to accommodate the private respondent with a malafide intention by the Director (Handicrafts), Government of India, Ministry of Textiles, West Block, No. 7, R.K. Puram, New Delhi – 110 066 on that ground the order of transfer in respect of the applicant may be set aside and/or quashed and the respondent authority may be directed that the private respondent may not be posted at the place of the present applicant but against any suitable vacancy in the zone."

2. The submissions of the applicant, in brief, is that the applicant had joined the office of the respondent authorities as an Investigator on 14.10.2011 and was posted as Assistant Director (H), HSC, Port Blair. He continued to remain in Port Blair upon consequent promotions to the said post. The applicant's spouse is a Lecturer in B.R. Ambedkar Institute of Technology since January, 2013 and his son is pursuing his studies in Class X at KVS, Port Blair. Hence, the applicant had requested the respondent authorities vide his representation dated 13.6.2020 to retain him at Port

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Blair in order to permit both husband and wife to be posted at the same station.

The respondent authorities, however, in utter disregard of DoPT circular dated 30.9.2009, issued a transfer order dated 15.6.2020 (Annexure A-10 to the O.A.) vide which the applicant was transferred from HSC, Port Blair to HSC, Hyderabad and private respondent No. 6 was promoted to the post of Assistant Director (H) and posted at HSC, Port Blair. The applicant is aggrieved that despite his representations dated 13.6.2020, the respondent authorities had chosen to transfer him in violation of DoPT's extant circulars and, that, his representations dated 13.6.2020 were not considered by the authorities.

3. Ld. Counsel for the respondents would submit that private respondent No. 6 has already joined as Assistant Director (H) at HSC, Port Blair on promotion and that the applicant has refused to accept his release order.

Ld. Counsel for the applicant would, however, controvert such claim with his averment that the applicant is yet to be released from his present place of posting.

4. Detailed perusal of the records, however, reveal that the applicant has not prayed to the authorities for reconsideration of his transfer order. Accordingly, in the interest of justice, without entering into the merits of the matter, and, after hearing both Ld. Counsel, we would accord the applicant liberty to prefer a representation to the authorities within two weeks from the date of receipt of a copy of this order. In the event such representation is preferred and received, the competent respondent authority, shall, within a period of six weeks therefrom, dispose of the same

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in accordance with law and communicate the decision to the applicant in the form of a reasoned and speaking order.

In the event the applicant has not been relieved, he may be allowed to continue in his present place of posting till disposal of his representation. In case he has been relieved, however, no coercive steps should be taken to compel him to join his transferred place of posting till such time his representation is disposed of.

5. With these directions, O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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