



## CENTRAL ADMINISTRATIVE TRIBUNAL

### CHANDIGARH BENCH

O.A.NO.060/00302/2020

Decided on: 03.06.2020

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**  
**HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

Ravi Prakash Gupta, IAS (Hy.2007), aged 48 years, S/o  
 Sh. K.L. Gupta, Permanent Resident of C/o Sh. Chander  
 Shekhar Gupta, Near Saroj Hospital, Padav Mohalla,  
 Samalkha, District Panipat, Haryana-132101. Email ID  
 : moonravi.2007@rediffmail.com

Applicant

**(BY: SELF)**

Versus

1. Union of India through Secretary to Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, North Block, New Delhi.

**(BY : MR. SANJAY GOYAL, ADVOCATE)**

2. State of Haryana through Chief Secretary to Government of Haryana, Haryana Civil Secretariat, Sector-1, Chandigarh.

**(BY : MR. ANKUR MITTAL, AAG)**

3. Narhari Singh Banger, IAS (Hy. 2011) through Chief Secretary to Government of Haryana, Haryana Civil Secretariat, Sector-1, Chandigarh.

**(BY : NONE)**

Respondents

**ORDER**  
**[HON'BLE SANJEEV KAUSHIK, MEMBER (J)]**



1. Mr. Ravi Prakash Gupta, a Junior Administrative Grade Officer of Indian Administrative Service, belonging to State of Haryana, of 2007 batch, is before this Court for invalidation of the order dated 18.5.2020 (Annexure A-5), whereby he has been transferred from the post of Deputy Commissioner (DC), Fatehabad to the post of Director General, Swarna Jayanti Haryana Institute of Fiscal Management (for short "DG, SJHIFM").

2. The facts which led to the filing of the Original Application (O.A) are that the applicant, who is physically handicapped (100% visually impaired), upon selection in IAS was initially allocated to Chhattisgarh State. Pursuant to a policy decision for transfer of disabled persons, he was transferred to Haryana cadre vide notification dated 21.10.2015 and posted as Additional Secretary (Finance). The applicant submitted a representation dated 5.4.2016 for a field posting as Deputy Commissioner, which was acceded to vide order dated 25.4.2016, posting him as Deputy Commissioner, Kaithal. Just after 6-1/2 month, the applicant was transferred and posted as Director, Food and Supplies, Haryana and Special Secretary to



Government of Haryana, Food and Supplies, Department and M.D. CONFED. He was also posted as Director, Medical Education and Research, Haryana, Special Secretary to Government of Haryana, Medical Education and Research Department, Chief Vigilance Officer, HUDA, Special Secretary to Govt. of Haryana, Home-II, Department and Commissioner, Gurudwara Elections, vide order dated 22.8.2017.

3. Aggrieved against these transfer orders, the applicant filed O.A.No.060/1289/2017 in this Tribunal alleging violation of rules 7 (3) read with rule 3 of the IAS (Cadre) Amendment Rules, 2014 (for short "Cadre Rules", read with Notification dated 13.4.2016, with direction to the respondents to allow him to complete his tenure as DC, Kaithal, in terms of notification dated 28.1.2014, read with decision of Apex Court in the case of **T.S.R. SUBRAMANIAM AND OTHERS VS. UNION OF INDIA & OTHERS**, 2014 (1) SCT 255, relating to fix tenures. The pleas taken by applicant did not find favour with this Tribunal and as such O.A. was dismissed on 28.5.2018 (Annexure A-1).

4. Not satisfied with the view taken by this Tribunal, the applicant filed CWP No.16460 of 2018 in the Hon'ble High Court of Punjab and Haryana, which was allowed on 5.12.2018 (Annexure A-2) quashing the



impugned transfer orders including order passed by this Court with direction to the respondents to re-consider case of applicant for posting him in Field in accordance with law. The SLP filed by State of Haryana resulted into dismissal on 6.8.2019 (Annexure A-3) and ultimately applicant was posted as DC, Fatehabad, vide order dated 28.12.2019 (Annexure A-4). However, after few months, the applicant has been transferred from the post of DC, Fatehabad to DG, SJHIFM, vide order dated 18.5.2020 and in his place, respondent no.3 has been posted, hence the applicant is before this Court challenging the impugned order.

5. The applicant has taken various grounds for invalidation of the impugned order, firstly that it is in violation of rule 7 of Cadre Rules having been passed before completion of two years of service and secondly that State has not given any reasons for passing the impugned order.

6. The State of Haryana, Contesting Respondent No.2 has filed a written statement. It has specifically been pleaded that in order to ensure stoppage of spread of corona virus, the Ministry of Home Affairs, Government of India, vide order dated 24.3.2020 had imposed the nation-wide 21 days lockdown in the country. All the State Governments were directed by



issuing detailed guidelines to take every possible effective measures to ensure that everybody should stay home and the big responsibilities were given to the district administration and the officers posted at the helm of the affairs to take all possible measures keeping in mind the guidelines / directions issued by the Ministry of Home Affairs, Govt. of India. The lockdown was further extended from time to time upto 31.5.2020. The issue of posting / transfers of IAS officers was discussed in the Department of Personnel, keeping in view the Covid-19 and it was observed that since DCs/DMs have to play a pivotal role and as such some of them were required to be transferred from their districts.

7. It is submitted that the impugned order has been passed in consonance with Cadre Rules, on the recommendations of the Civil Services Board (CSB). After receiving a Note from the concerned administrative authority and even obtaining legal advice from the Advocate General Haryana, considering the earlier decision of the Hon'ble High Court, the matter was taken up by the CSB, who recommended case of the applicant, which recommendation was accepted by the competent authority and the impugned order has been passed. It has also been submitted



therein that the plea of the applicant that he has not completed minimum tenure of 2 years for considering the empanelment with the Central Government is ill founded and incorrect. In para 12 of the written statement, they have given a detailed chart showing that the applicant had completed two years of service as Deputy Commissioner/Additional Collector and, therefore, his case was considered for empanelment in the Central Government. It is thus prayed that the impugned order be upheld by dismissing the O.A.

8. We have heard the learned counsel for the parties at length and examined the material on file including the original file produced by the State of Haryana.

9. The applicant, who appears in person, has argued his own case and vehemently urged that the impugned order is in violation of not only the Cadre rules but also the order passed by the Hon'ble High Court in CWP No.16460/2018 in case of applicant in earlier round of litigation and lastly he urged that the rule 7 of Cadre Rules provide that authorities have to give reasons for transfer which is missing in this case and as such it be quashed and set aside and respondents be directed to post him to a field duty as Deputy Commissioner.

10. Per contra, Mr. Ankur Mittal, AAG, State of Haryana, appearing for respondent no.2 argued, what



has been submitted in the written statement and prayed that the impugned order does not warrant any interference by a court of law.

11. By now, it is well settled principle of law that the courts do not interfere with transfers which are 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 the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed 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. It is not that the applicant alone has been transferred. In fact, along with him, there are many other IAS officers who were considered and transferred pursuant to policy decision considering the





Covid-19 challenge and as such no illegality can be attributed to the respondents for transferring the applicant which is in public interest.

12. It was held by Hon'ble Supreme Court in case **UNION OF INDIA V. S.L. ABBAS** 1993 (4) SCC 357 that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it.

13. A three-Judge Bench of Hon'ble Supreme Court in cases **MAJOR GENERAL J.K. BANSAL VS. UNION OF INDIA & ORS.** (2005) 7 SCC 227 and **STATE OF M.P. AND ANOTHER VS. S.S. KOURAV AND OTHERS** (1995) 3 SCC 20 has observed that the Courts or Tribunals are not appellate forums to decide on transfer of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the Courts or Tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by mala fides or by extraneous consideration without any factual background foundation. Similar view has been taken in





**S.C. SAXENA VS. U.O.I. & OTHERS** (2006) 9 SCC 583 and **STATE OF U.P. VS. GOBARDHAN LAL** (2004) 11 SCC 402.

14. The posting of IAS Officers is governed by Rule 7 of Cadre Rules. Rule 7 (3) and (5) of the Cadre Rules read as under:-

"7. Posting.-(1) All appointments of cadre of officers shall be made on the recommendation of the Civil Services Board as specified in the Schedule annexed to these rules:-

xxx xxx xxx xxx xxx xxx xxx

(3) A cadre officer, appointed to any cadre post shall hold the office for at least two years, unless in the meantime he or she has been promoted, retired or sent on deputation outside the State or training exceeding two months.

xxx xxx xxx xxx xxx xxx xxx

(5) The Central Government or the State Government as the case may be, may transfer a cadre officer before the minimum specified period on the recommendation of the Civil Services Board as specified in the Schedule annexed to these rules."

As per Sub rule 3 of Cadre Rule 7, a cadre officer, appointed to any cadre post shall hold the office for at least two years, unless in the meantime he or she has been promoted, retired or sent on deputation outside the State or training exceeding two months. Sub rule 3 is required to be read in conjunction with sub-rule 5. Sub rule 5 provides that the Central Govt. or the State



Government, as the case may be, may transfer a cadre officer before the minimum specified period on the recommendation of the Civil Services Board as specified in the Schedule annexed to these rules. The competent authority has issued notification dated 13.4.2016 notifying Indian Administrative Service (Cadre) Second Amendment Rules, 2016, whereby they have amended sub rule 3 to rule 7 of Cadre Rules, as under :-

“3. Procedure.— (1) (a) The Civil Services Board may obtain the information from the Administrative Department of the State concerned or any other relevant sources while considering the transfer of an officer before completion of specified tenure.

(b) The Civil Services Board shall submit annual report on 1st January to the Central Government about the date of the Civil Services Board meetings in the prescribed Form annexed to the Schedule and also upload the same on the website of the concerned State Government or Union territory in public domain.

(2) The Competent Authority may amend, modify or reject the recommendation of the Civil Services Board for the reasons to be recorded in writing.”

15. The extracted sub rule 3 to rule 7 of Cadre rules clearly laid down that the competent authority may amend, modify or reject the recommendation of the CSB for the reasons to be recorded in writing.

16. It is not in dispute that the State of Haryana has constituted CSB on 28.1.2014. The case of the



applicant was considered in the meeting dated 18.5.2020 of the CSB, which recommended his transfer from the post of DC, Fatehabad to DG, SJHIFM along with other DCs. While recommending the case of the applicant, the Board has recorded the reasons in the file produced by respondent no.2, which we have perused minutely. It indicates that while considering the case of the applicant, the competent authority accepted the recommendations made by the SCB and impugned transfer orders were passed by it. The perusal of the file clearly indicates that the recommendations or findings of CSB cannot be interfered by this Tribunal, more so when the same do not appear to be perverse from any angle.

17. Not only that, during the pandemic Covid19 and lockdown under going in the country, the issue of transfer should be left to the discretion of the competent authorities as it is for them to consider as to who should be posted at which assignment and it is not the job of the courts or Tribunals to sit in appeal over the wisdom of the administrative functionaries who are better in hold of the factual position on the field. The court cannot interfere in a transfer order unless it is shown that the same has been passed in violation of statutory rules, is tainted with malafide or has been



passed with malafide intentions, which elements are totally missing in this case.

18. The plea of the applicant that there is no reason recorded by the CSB, on the face of it, cannot be accepted at all as we find that there are enough reasons given by the Board in its minutes/recommendations for transfer of the applicant and there does not appear to be any malafide intention on the part of the indicated Board or authorities. It is apparent from pleadings that to tackle the problem arising out of Covid19 pandemic, conscious decision was taken to transfer certain DCs/DMs and in that process, the applicant was transferred which action of the respondents do not indicate any kind of malafide intentions or punitive in nature.

19. The plea taken by the applicant, as noticed above, regarding non completion of two years is also factually incorrect as it has been duly explained in para 12 of the written statement with a tabular statement, as to how the applicant has completed more than 36 months as Dy.Commissioner/Additional Collector. In any case, it is not in dispute that even before completion of tenure, one can be transferred out in terms of the rule 3 of Cadre Rules, as notified on 13.4.2016, which is not even under challenge. The order of the High Court in



the earlier round of litigation does not help the applicant at all in view of this amendment.

20. Finding that the O.A. filed by the applicant has no merits, it is dismissed accordingly with no order as to costs.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**(AJANTA DAYALAN)**  
**MEMBER (A)**

Place: Chandigarh

Dated: 03.06.2020

HC\*