

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE**

**ORIGINAL APPLICATION NO.170/453/2020**

ORDER RESERVED ON 22.02.2021

DATE OF ORDER: 22.03.2021

**CORAM:**

**HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)**

**HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)**

Mr. Sharath Chandra Gatty  
59 years, S/o Late U Rama Gatty  
No.16-65, Ombathukere House  
P O Ullal, Mangalore575020.

....Applicant

(By Advocate Shri L.Mahesh)

Vs.

1. The Commissioner  
Central Provident Fund Commissioner  
Bhavishyanidhi Bhavan  
No.14, Bhikaji Cama Place  
New Delhi-110066.

2. Regional Provident Fund Commissioner-1  
Bhavishyanidhi Bhavan  
Highlands, Silva Road  
Mangalore-575 002.

3. The Additional Central  
Provident Fund Commissioner (HQ)  
Karnataka Zone, no13  
Bhavishya Nidhi Bhavan  
Raja Ram Mohan Roy Road  
Bangalore-560025.

.....Respondents

(By Advocate Shri Vinay Venugopal)

**ORDER**

**PER: RAKESH KUMAR GUPTA, MEMBER (A)**

The applicant has filed the present Original Application under Section 19 of the

Administrative Tribunals Act, 1985 seeking the following relief:

- i. To issue a writ of Certiorari by quashing the impugned order bearing No.64/2020-21, passed by the Respondent No.3, dated 16-9-2020 at Annexure-A11.
  - ii. To issue a writ of mandamus directing the respondents to continue the applicant as Section Supervisor at R O Mangalore till his retirement.
  - iii. Pass such other order/directions that this Hon'ble Tribunal deems fit in the circumstances of the case in the interest of justice and equity.
2. The facts of the case as pleaded by Shri L.Mahesh, learned counsel for the applicant are as follows:
- a. The applicant is presently working as Section Supervisor, Regional Office(RO) at Mangaluru. He is aged 59 years and is due to retire from service on attaining the age of superannuation with effect from 30.09.2021.
  - b. The applicant was earlier transferred to Bangalore on rotational basis vide order dated 31.03.2017 for a specific period of one year. Though it was intended for only one year, the applicant served at Bangalore for two years two months as he was re-transferred to Mangalore on 31.05.2019.
  - c. The applicant was issued with an order of transfer to Regional Office, K.R.Puram, Bengaluru vide office order dated 03.07.2020 in the guise of rotational transfer.
  - d. The applicant questioned the necessity of transfer while he is due to retire

shortly vide his representation dated 6.7.2020 addressed to the Additional Central Provident Fund Commissioner(HQ), Zonal Office, Bengaluru.

- e. The applicant also challenged his transfer order dated 03.07.2020 before this Tribunal in OA.No.320/2020. In this case, after completion of pleadings, when the matter was taken up for hearing, the Tribunal had summoned the original records. Thereafter, the respondents took time and instead submitted an order No.54/2020-21 dated 11.09.2020, withdrawing the transfer order dated 3.7.2020. In view of this withdrawal order, the Tribunal passed an order dated 14.09.2020 treating the application as becoming infructuous in terms of the said development (Annexure-A10).
- f. However, immediately after this order dated 14.09.2020 passed by the Honorable Tribunal, the Respondents issued another transfer order dated 16.09.2020 vide which the applicant was again transferred and posted to Regional Office, K.R.Puram, Bangalore with immediate effect. The order further stated that on reporting at RO, K.R.Puram, the request of the applicant may be considered by the authority to work from RO, Mangalore in accordance with Standard Operating Procedure(SOP) for Multi Location Settlement of claims communicated vide HO letter dated 09.06.2020 and Head Office email dated 19.08.2020 i.e. granting permission to work from an office other than that at the place of posting during COVID 19 lockdown period.

- g. The applicant made a representation dated 21.09.2020(Annexure-A12) to the respondents No.2 & 3 against the said order. But the respondents rejected the request of the applicant vide communication dated 24.09.2020. Hence, the applicant is left with no other alternative but to approach this Tribunal again.
- h. The Minister of State (Independent Charge) for Labour & Employment in a communication dated 20.05.2020 addressed to the Secretary, Labour & Employment, had directed, that:

*in view of the extraordinary situation prevailing in the country due to outbreak of COVID-19 Pandemic causing serious disruptions in the life, it would not be appropriate to dislocate officers/staff of Ministry of Labour & Employment/ its attached offices/ subordinate offices/ autonomous organisations for one year. Therefore, it has been directed that no rotational transfers of officers/officials in different grades (Group 'A', 'B' and 'C') be carried till 30.04.2021 in Ministry of Labour & Employment, ESIC, EPFO, CLC(C), DGLW, VVGNLI, DGMS, DGFASLI, Labour Bureau etc. The exception to the moratorium on rotational transfers upto 30.04.2021 would be on following grounds:-*

*(i) Administrative reasons to fill any vacancy due to promotion/retirement with general principles that minimum dislocation is caused to the officers/staff while deciding postings on promotion.*

*(ii) Consideration of requests by officers/staff on compassionate grounds i.e. medical emergency with self or family members etc. However, the transfers being made on personal request and on compassionate ground will be without any cost to the Government i.e. no transfer grants/transfer allowance/travelling allowance would be paid to the officers/staff who have been transferred on their own request.*

*The transfer to be made in the above two categories would be recommended by the Transfer Committees and the transfer orders would be issued after the approval of the competent authority. These directions would come into effect with immediate effect and the necessary orders may be issued by different organisations*

*accordingly. This step would lead to minimum inconvenience at this point of time of COVID-19 and would also curtail the expenditure of Government during this financial year.*

- i. The Jabalpur Bench of this Tribunal, vide its orders dated 03.08.2018 in OA.No.135/2018, had directed, inter-alia, the Secretary, Ministry of Labour, to look into the issue and instruct the appropriate authority of the respondent organisation, to formulate rotational transfer guidelines. In turn, the Ministry had advised EPFO to formulate a Rotational Transfer Policy for Group B & C employees of the EPFO. Draft guidelines have also been circulated for comments/suggestions vide letter dated 22.04.2020. These draft guidelines include the provision that officials due to retire within next two years may not be disturbed except in case of administrative exigencies.
3. Learned counsel for the respondents, Shri Vinay Venugopal in his reply statement has averred as follows:
- a. The transfer of the applicant from the Regional Office, Mangaluru to the Regional Office K.R.Puram is solely on administrative exigencies having due regard to all factors and is not a rotational transfer as alleged by the applicant.
  - b. As is forthcoming from the impugned order of transfer the respondents have considered the grievance of the applicant on merits having regard to all the relevant factors in the interest of the employee as well as administrative

efficacy of the department, and has thereby allowed him to report at Bangalore and work from Mangalore as per his convenience. There are administrative exigencies/requirements due to heavy work pressure in Bangalore in view of COVID-19 pandemic. The claims for the last six months are increasing rapidly thereby the staff in the cadre of Section Supervisor are required in more numbers at Bangalore.

- c. The respondents have resorted to adoption of administrative transfers uniformly, having regard to all relevant factors including the welfare of employees and administrative exigencies of the Organization. There is an urgent requirement of staff in the cadre of Section Supervisors at Regional Office, Bengaluru and it is for this reason, the applicant has been transferred from Mangalore to Bengaluru.
- d. There are about 9 officials at RO Mangalore working in different Regional Office on rotational transfer basis and have completed more than 2 years and in some cases even more than 3 years. These officials have been representing for transferring them back to RO Mangalore. Due to non-availability of substitutes and heavy workload in the offices where they are presently posted, the officials have not been relieved/transferred back to RO Mangalore. Officials who are stationed at Regional Officers of Bengaluru have been representing for re-transfer to Regional Office, Mangalore on medical grounds.

- e. The Transfer Committee as per minutes appended at Annexure-R3, had held a meeting on 11.9.2020 and 14.9.2020. It had submitted, inter alia, its report and recommendations as under, qua the applicant:

*“Letter dated: 29.7.2020 submitted by Shri Suneel Kumar. M.*

*Letter dated: 29.7.2020 submitted by Sh. Sarath Chandra Gatty.*

*The two applications stated above are considered together being similar in nature. Both officials were transferred to R.O. K.R.Puram from R.O. Mangalore vide Z.O, office order No.EPFO/ACC(K&G)/BNG/HRM-82/2020-21/326 dated: 3.7.2020 office order No.27/2020-21 and office order No.EPFO/ACC(K&G)/BNG/HRM-82/2020-21/327 office order No.28/2020-21 dated: 3.7.2020. It is noted that the said transfer orders have been withdrawn by the competent authority on 11.9.2020 vide reference (vi) to (vii) cited on pre page. As the request of the officials is to retain them at Regional Office, Mangalore, the Committee need not consider it as the transfer has already been revoked by the competent authority and their request has become infructuous. However, as already explained above, the services of these officials may be utilized for any other office in Karnataka State by permitting them to work from Regional office, Mangalore itself depending upon the administrative exigency.”*

- f. The 3<sup>rd</sup> respondent, concurring with the report of the Transfer committee and taking note of the heavy work load at Regional Office, K.R.Puram, Bangalore, has resorted to issue the impugned transfer order bearing No.EPFO/ACC(K&G)/BNG/HRM-82/2020-21/674 dated 16.09.2020 wherein it clearly states that the applicant can avail Multi Location Settlement of claim facility since he has been granted permission to work from an office other than that at the place of posting during COVID 19 lock

down period.

- g. On receipt of transfer order dated 16.9.2020, it was the bounden duty on the part of the applicant to report for duty at Regional Office, K.R.Puram and thereafter seek the remedy of permission to perform his duties from the Regional Office at Mangalore as indicated in the impugned order of transfer. Instead of adhering to the said directions, the applicant has again come up with the same pleadings i.e. domestic and medical reasons by way of representation dated 21.9.2020. The applicant has made deliberate and concerted attempts to gain time and without expressing any concern and duty consciousness has entered into repeated litigation ignoring the fact that as on date of transfer dated 16.9.2020, the applicant has more than one year of service. The applicant has intentionally waited for spill over and on precipitation of the issue has filed this application. The approach of the applicant is unreasonable and detrimental to the interest of the members of the Employees' Provident Fund.
- h. The 3<sup>rd</sup> respondent has issued the impugned transfer order dated 16.9.2020 looking into the heavy work load prevailing at the field offices and taking note of the same. Hence, the applicant has been transferred from the Regional Office, Mangalore to Regional Office, K.R.Puram, Bengaluru, purely on the administrative grounds.

- i. The similarly placed official, namely Shri Suneel Kumar, Section Supervisor, has adhered to the transfer order and reported for duties at Regional Office, K.R.Puram. After reporting for duty, he submitted a request for permission to work from Mangalore itself using Multi Location Settlement of Claims facility. This request was granted and he has, subsequently, returned to Regional Office, Mangalore and is continuing to discharge his duties relating to the Regional Office, K.R.Puram from Mangalore. On the same analogy, the applicant is required to adhere to impugned transfer order and to carry out with the official tasks.
4. After going through the pleadings, and hearing the learned counsels, it is apparent that the respondents have stated that the applicant could be allowed to work from Mangalore itself, and process the cases of R.O., K.R.Puram, Bangalore using Multi Location Settlement of Claims facility, on online basis. However, the respondents are insisting that the applicant should physically move from Mangalore for reporting for duty at Bangalore first. Subsequently, he could be permitted, to function online from Mangalore, on submission of a formal request by him for permission to use the Multi Location Settlement of Claims facility. The applicant, on the other hand, is resisting his movement from Mangalore to Bangalore on medical grounds as well as the fact that rotational transfers have been stopped by the department itself considering the COVID-19 situation.
5. The insistence of the respondents for physical movement of the applicant

from Mangalore to Bangalore for reporting for duties before considering grant of permission to him to work from Mangalore does not appear to be reasonable. The formal reporting of the applicant to Bangalore could have been done using electronic means such as email etc., as is being followed in number of different departments of the Government of India, keeping in view the unusual situation being faced in the country on account of the ongoing COVID-19 pandemic and the restrictions on unnecessary travel.

6. Moreover, a careful perusal of the minutes of the Transfer Committee meeting held on 11.09.2020 & 14.09.2020 in ZO, Bengaluru to consider applications received for transfer in the cadre of Section Supervisor reveals, that the application submitted by the applicant dated 29.07.2020 had been considered and it had been decided as follows:

*'since the transfer has already been revoked by the competent authority, hence the request has become infructuous. However, as already explained above, services of the officials may be utilised for any other office in Karnataka State by permitting them to work from RO, Mangalore itself depending upon the administrative exigency'.*

7. As is abundantly obvious from these minutes, there is no precondition prescribed in these minutes that the applicant has to first physically report to Bangalore, before he can be permitted to continue to work from Mangalore while attending to the work relating to Bangalore online through Multi Location Settlement of Claims facility.

8. The applicant is more than 59 years of age and is suffering from co-

morbidities such as diabetes. In view of the Covid pandemic and his vulnerability due to age and co-morbidities, it would not be advisable for him to travel only for the limited purpose of physically reporting for duties at Bangalore and then travelling back from Bangalore to Mangalore. The need for physical reporting for duties should be avoided and can be easily dispensed with at this stage.

9. Keeping the above facts in view, the insistence of the respondents for physical movement of the applicant from Mangalore to Bangalore before allowing him to work from Mangalore, is unreasonable. The formality of physical reporting by the applicant at Bangalore may be dispensed with and he may be permitted to report electronically for his duties at Bangalore. The respondents are, directed to reconsider the transfer order and to allow the applicant to perform his duties while remaining physically present at Mangalore and attend to the work relating to Bangalore from Mangalore.

10. The OA is accordingly, disposed of with the above direction. However, there shall be no orders so as to costs.

**(RAKESH KUMAR GUPTA)**  
**MEMBER (A)**

**(SURESH KUMAR MONGA)**  
**MEMBER (J)**

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