

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/01479/2020

Date of order: 15.01.2021

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

Arcaprava Banerjee,
 S/o. Sankar Prasad Banerjee,
 Aged about 54 years,
 Superintendent of CGST & C. Ex.,
 Under order of Transfer from the
 Commissionerate of South Kolkata,
 GST Bhawan,
 Shantipally,
 180 Raj Danga Main Road,
 Kolkata – 700 107.

.... Applicant

- V E R S U S -

1. Union of India,
 Represented through the Revenue Secretary,
 Ministry of Finance,
 Department of Revenue,
 North Block,
 New Delhi – 110 001.
2. Chief Commissioner of CGST and Cx,
 Kolkata Zone,
 180, Shanti Pally,
 R.B. Connector,
 Kolkata – 700 107.
3. Principal Commissioner of GST and Central Excise,
 Kolkata North,
 Commissionerate 180,
 Shanti Pally,
 R.B. Connector,
 Kolkata – 700 107.
4. Commissioner of GST,
 Kolkata (South),
 180, Rajdanga Main Road,
 Shantipally,
 Kolkata – 700 107.
5. M.C. Marandi,

[Signature]

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Joint Commissioner (P&V),
 GST and Central Excise,
 Kolkata North Commissionerate,
 180, Rajdanga Main Road,
 Shantipally,
 Kolkata – 700 107.

... Respondents

For the Applicant : Mr. D. Banerjee, Counsel

For the Respondents : Ms. R.V. Kundalia, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved with his orders of transfer dated 21.12.2020, the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

- "(a) To set aside and quash the Order No. Establishment Order No. 85/2020 dated 21.12.2020 issued by the Joint Commissioner (P&V), GST, North Kolkata Commissionerate.
- (b) To direct the respondent to revoke the impugned order of transfer immediately.
- (c) Any other or orders as the Hon'ble Tribunal deems fit and proper."

A prayer for interim order is made to the following effect:-

"An interim order do issue staying the operation of the impugned order of transfer being Order No. Establishment Order No. 85/2020 dated 21.12.2020 issued by the Joint Commissioner (P&V), GST, North Kolkata Commissionerate till disposal of the Original Application."

2. Heard both Ld. Counsel, examined documents on record. The limited purpose of this order is to decide on the justifiability of the applicant's prayer for interim relief.
3. Ld. Counsel for the applicant would submit that the applicant, who is a Superintendent of CGST & CX, had been placed on suspension vide orders dated 27.12.2018 in contemplation of disciplinary proceedings. Such suspension orders were extended from time to time till 11.9.2019 after which the applicant approached this Tribunal in O.A. No. 1410 of 2019. The Tribunal disposed of the said O.A. with the following directions:-

10/10/2020

"8. In view of such, we dispose of the O.A. with a direction upon the respondent authorities to conclude the investigation as early as possible so that the applicant is not continued on suspension eternally and to pass appropriate orders revoking the suspension order if no charge sheet is issued before the next date of review."

As the disciplinary proceedings were yet to be initiated, the suspension was revoked vide an order dated 11.12.2020 (Annexure A-7 to the O.A.).

The applicant, however, was thereafter transferred vide orders dated 21.12.2020 to Bolpur (Annexure A-8 to the O.A.) and was deemed to have stood as relieved on 21.12.2020 afternoon. The applicant is aggrieved that he had joined Kolkata South GST Commissionerate only on 23.7.2019 which is a CCA post, and, as per guidelines contained at Annexure A-11 to the O.A., a tenure of four years has been laid down for postings in CCA category area. According to the applicant, this norm has been violated in his case activated by malafide intentions of the respondent authorities and that, although he had represented against such transfer order at Annexure A-9 to the O.A., the respondent authorities have failed to respond to the same.

4. Both Ld. Counsel would, however, submit that the applicant has already joined his transferred place of posting at Bolpur.

5. Upon perusal of records, and, after hearing both Ld. Counsel, the following transpires:-

- (i) The applicant was placed on suspension since 27.12.2018 and the said suspension continued till 11.12.2020. His suspension was revoked particularly in the context of orders of the Tribunal that, as the order of suspension cannot continue eternally, appropriate orders should be passed to revoke the suspension order, if no chargesheet is issued before the next date of hearing. As admittedly, the respondents were not able to issue a chargesheet to the applicant within the time given, his suspension order was revoked.
- (ii) The respondents would argue that the applicant's suspension was continued from time to time as because there was reasonable apprehension that he may tamper with evidence if allowed to rejoin

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his duties in the Kolkata South GST Commissionerate. Accordingly, when his suspension order was revoked, he was transferred out to Bolpur which is locationally and jurisdictionally distant from his earlier postings at Petrapole and Kolkata South.

- (iii) We also observe that Annexure A-8 to the O.A. is a singular order issued in the context of the applicant only, and, is not a general transfer order as annexed at Annexure A-5 to the O.A. The guidelines at A-11 to the O.A. refer to the terms and conditions of general transfer orders and not to orders in singular cases.
- (iv) The applicant's posting at Bolpur was made specifically to prevent his proximity to his earlier area of work particularly Petrapole and his activities therein whereupon disciplinary proceedings have been contemplated against him as per Annexure A-3 to the O.A.

Accordingly, we do not find that the transfer order at Annexure A-8 is either violative of the transfer guidelines or that any *prima facie* case been established on the alleged malafide intentions of the respondent authorities.

Furthermore, as the applicant has admittedly joined his transferred place of posting, the scope of staying the operation of such transfer order at this belated stage is largely infructuous.

6. Accordingly, the balance of convenience not being in favour of the applicant, we do not consider it a fit case to grant any interim relief in favour of the applicant in this O.A. and the prayer for interim relief is rejected.

7. The O.A., however, may be listed on 2.3.2021 as scheduled.



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP