

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

Reserved on: 02.02.2021

Date of order : 23.03.2021

C O R A M

HON'BLE MR. M.C. VERMA, JUDICIAL MEMBER

HON'BLE MR. SUNIL KUMAR SINHA, ADMINISTRATIVE MEMBER

1. OA/050/00292/2020



Sanjay Kumar, S/o Late Tapeshwar Sharma, resident of House No. - 921, Magadh Colony, Gaya. At present residing at Flat No.- B/5, LakhanVishwanath Apartment (Near Poonam Gas Agency), Maurya Path, Bailey Road, Patna-14

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Applicant.

By advocate : Shri J.K. Karn

Vs.

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 Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.
4. The Dy. CDA (AN), O/o The Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.
5. The Accounts Officer (M), O/o the Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.

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Respondents.

By Advocate(s) : Shri H.P. Singh, Sr. SC with Shri Kumar Sachin

2. OA/050/00293/2020

Ramanuj Kumar, S/o Late Chhotan Singh, Resident of Village & P.O.- Khakhari, P.S.- Kashichak, District- Nawada, At present residing at Mohalla- Punaichak, Patna-23.

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Applicant.

By Advocate : Shri J.K. Karn

Vs.

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 Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.
4. The Dy. CDA (AN), O/o The Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.
5. The Accounts Officer (M), O/o the Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.



..... Respondents.

By advocate: Shri G.K. Agarwal

3. OA/050/00294/2020

Dilip Kumar Sinha, S/o Shri Saryu Prasad, resident of PratimaSadan, Mohalla- Chandmari Road, Azad Path, Patna-800020.

..... Applicant.

By Advocate : Shri J.K. Karn

Vs.

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 Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.
4. The Dy. CDA (AN), O/o The Controller of Defence Accounts (Patna), Rajendra Path, Patna- 800019.

..... Respondents.

By advocate: Shri H.P. Singh, Sr. SC

ORDER

Per S.K. Sinha, A.M. : The above three OAs, having identical cause of action and reliefs sought for and common counsel for applicants were heard together and are being decided through a common order.

2. All the three OAs have been preferred against the order(s) of Deputy CDA (Admin) dated 31.07.2020 transferring the applicants out from Patna (Annexure- A/1) and the orders relieving them from the same date (Annexure - A/2) .

3. As per the OAs, the applicants who are employees of Defence Accounts Department currently posted in the office of Controller of Defence Accounts (CDA), Patna were issued show cause letters on 22.06.2020 alleging non- conformity with the First In First Out (FIFO) system of the office and lack of awareness and asking them to explain why disciplinary action should not be initiated against them. The applicants submitted reply on 29.06.2020 but thereafter heard nothing thereon. On 31.07.2020, without any prior notice/intimation the applicants were transferred out from Patna and relieved from the same date vide the impugned transfer and relieving orders. Applicants in all the three OAs have claimed that prior to their current posting they had served at 'hard' stations and in accordance with the transfer policy of the organization they were moved to Patna as per their choice. Patna, being a 'normal station', has posting tenure of three years and since the applicants had joined this place in August / October, 2018 their transfer from Patna vide the impugned order(s) was premature. The applicants have also stated that their daughters are studying in Class XII (except applicant of OA 293/2020) and that the transfer policy provides for



exempting/deferring transfer if children of the officials are studying in Class X or Class XII.

4. The specific details in respect of three OAs are as under:-

(a) OA 292/2020 – The applicant, a Senior Auditor who was earlier posted at Ramgarh (Jharkhand) which is a hard station, had joined CDA office, Patna in August, 2018. He has been transferred vide the impugned order to Kakinara (West Bengal) which is several hundred kilometers from Patna. The applicant's younger daughter is a student of Class XII.



(b) OA 293/2020 – The applicant, an Assistant Accounts Officer who was earlier posted at Panagarh (West Bengal) which is a hard station, joined the CDA office, Patna in August, 2018. He has been transferred to Gopalpur (Odisha), another hard station vide the impugned order dated 31.07.2020 .

(c) OA 294/2020 - The applicant, an Accounts Officer who was earlier posted at Srinagar which is a hard station, joined CDA office, Patna in October, 2018. He has been shifted to Panagarh (West Bengal) which is again a hard station. The applicant's younger daughter is a Class-XII student in Ganga Devi Mahila College, Patna.

5. The applicants have pleaded that there is no mention of any ground such as administrative exigency, public interest in the impugned order(s). Further, the transfer during the peak of Covid pandemic without mention of any specific reason is violation of Government directives to minimize movements. Applicants

submitted representation to the competent authority requesting to review the transfer order(s) and retain them at Patna. In the instant OAs the applicants have prayed for quashing and setting aside the impugned transfer and relieving orders (Annexures A/1 and A/2) and the interim relief by staying the effect and operation of the impugned orders till final disposal of the OAs.



6. The respondents contested the OAs and filed first a short reply followed by detailed written statement in all the three OAs. The respondents have pleaded that the applicants were found willfully destabilizing the First In First Out (FIFO) system of processing of bills in the CDA with mala fide intention. Also, integrity of the officials was found doubtful and hence it was decided to transfer them prematurely in exigency of public interest. The respondents have mentioned that the service in Defence Accounts Department entails an all India transfer liability and the deployment of officers and staff in the department is decided as per the requirement of Armed Forces. The applicants have been transferred to stations where crucial vacancy existed. In view of these, the representations of applicants for retention at Patna were not acceded to by the competent authority (Annexure R/1). The respondents held that Hon'ble Supreme Court through its orders have settled the law on transfer that "transfer is an exigency of service" and courts have no jurisdiction to interfere with the order of transfer unless such transfer is vitiated on account of some statutory provisions or suffers

from malafide. A Govt. servant cannot disobey a transfer order by not joining at the transferred place and go to a court to ventilate his grievances. The respondents referred to **B. Vardha Rao Vs. State of Karnataka**: AIR 1986 SC 1955, **Union of India Vs. S.L. Abbas**: AIR 1993 SC 2444, **Union of India Bs. N.P. Thomas**: AIR 1993 SC 1605, **State of Punjab Vs. Joginder Singh**: AIR 1993, **ShilpiBose Vs. State of Bihar & Ors.** : AIR 1991 SC 531, **S.C. Saxena Vs. Union of India & Ors**: (2006) 9 SCC 583. **State of UP Vs. Govardhan Lal** in support of their contention and prayed for dismissal of the OAs.



7. The applicants filed rejoinder in which they denied the allegations of destabilizing the FIFO system of processing the bills. The applicants also pleaded that their transfer was ordered without any recommendation of the Transfer Committee. They referred to the judgements of Hon'ble Supreme Court in the case of **Vijay Singh Vs. State of UP** decided on 13.04.2020 in Civil Appeal No. 3550 of 2012 to point out that the charge of negligence, inadvertence or unintentional acts would not culminate into case of doubtful integrity. The applicants have, therefore, prayed that the impugned transfer order of the applicants is wholly unjustified and not tenable as per law and rules.

8. On 28.08.2020 we heard the learned counsels of both sides on the point of interim relief and ordered as follows:-

“Taking the entirety of facts into consideration, it is directed to maintain status quo as regards the transfer order but the

relieving order is directed to be put under deemed abeyance in all the three cases. The cases may be put up for final hearing on 11.09.2020.”

9. After admission, we heard the learned counsel for rival parties.

10. Shri J.K. Karn, counsel for applicants in all the three OAs stated that the applicants were transferred prematurely against tenure of three years. The applicants earlier served at hard stations and were transferred to Patna as per choice in accordance with the transfer policy but vide impugned order(s) they have been again transferred to hard/difficult or far away stations from Patna. There was no recommendation of the Transfer Committee as required under the Transfer Policy of CDA. The children of the applicants are studying in class X and XII and are required to appear in the Board exam and if shifted at this stage, their education would be hampered severely. The learned counsel contested the pleadings of respondents that the applicants were wilfully not following the First in First Out principle of the Department. He stated that under FIFO scheme cases should be cleared within a week and in the present case the delay was only for a day, hence there was no violation of FIFO principles. The learned counsel mentioned that the Tribunal had earlier in a similar case quashed the transfer of Y. Neelakantham, in OA 284/2020 vide order dated 21.10.2020. He also referred to the judgement of Hon'ble Supreme Court in the case of **T.S.R.**



Subramanian based on which all the government departments were directed to formulate own transfer policy and abide by them. In the instant case the respondents have shown complete disregard to their own transfer policy and hence all the three transfer orders need to be set aside.

11. Learned Sr. Standing Counsel Shri H.P. Singh appearing for the respondents stated that applicants have been transferred in view of administrative exigency and not as a punishment. He conceded that there was no recommendation of the Committee because these cases being postings within the command jurisdiction of CDA, Patna, there was no requirement to follow the transfer policy guidelines. The officials in CDA have an all India transfer liability and they can be posted to any of the offices/ units throughout the country. He also argued that transfer policy is an administrative guideline and not a law which could confer statutory right to an employee. Normal tenure at a particular place is not an enforceable right. The law in this regard is settled that the officers should first join the place of transfer rather than approaching a judicial forum for redressal of their grievances. He further mentioned that the applicants were not maintaining absolute integrity and acted in a discourteous manner in their official dealings. They also adopted dilatory tactics in disposal of works assigned to them. FIFO system is followed strictly in the Department to ensure transparency in dealing with the Defence Accounts cases and the applicants were trying to



undermine the integrity of office by trying to destabilize this system.

It was decided to transfer them from the present place in exigencies of public service.

12. Shri J K Karn, learned counsel for applicants, in rebuttal, questioned the assertion of learned counsel for the respondents that transfer within same command does not require the recommendation of the Transfer Committee. He referred to the transfer policy of CDA, Patna (Page-23, para 1.6) according to which the general/rotational transfers including sensitive posting within the organisation shall be recommended by Defence Accounts Placement Board, CDA, Patna and approved by the Controller. Ld. Counsel argued that if the applicants were not maintaining absolute integrity and behaving in a discourteous manner they should have been dealt under the CCS(CCA) Rules. In the applicants' case, he stated that the transfer was used as punishment.

13. The applicants have brought on record the CDA office note of file no. M/I/Disc/ 2020-21 relating the impugned transfer order(s) which they obtained under RTI (Annexure A-7/A-8). Relevant details in the office note are as under:

i. Page 1 of the office note dated 01.07.2020 mentions that the Daily Progress Report of 18.06.2020 showed the bills of 16.06.2020 as pending while a bill of 17.06.2020 was passed on the same day implying non-observance of the FIFO system and lack of awareness. In this connection, three officials were asked for explanation vide letters dated 22.06.2020 and their explanations were examined.



ii. At page 2 of the office note it is commented that the reply submitted by these officials is not satisfactory; that FIFO is not being followed; and integrity is under cloud. It is further mentioned that the three officials are liable to administrative action and restructuring of section for smooth functioning is proposed.

iii. In response to the above notes/comment, JCDA marked the file to CDA for orders on 02/07/2020.

iv. At page 3 of the office note there is an unsigned note marked to the CDA the relevant part of which is reproduced as under:-

“ Seeing all this context, as per Rule 3 (1)(i) and 3-A of CCS(Conduct) Rules 1965 and amended time to time the above officials have not maintain absolute integrity and in the performances of their officials duties, act in a discourteous manner, in their official dealing with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work respectively assigned to them.

Therefore this is very strong recommendation to transfer out all these three officials in different-different location under this command with immediate effect.”

v. The file after signature of CDA on 30/07/2020 was marked to GO(AN) who noted that , “As per clear directions of competent authority on transfer of said officials, please submit the locations as directed as per vacancy position under this organization” and the file was marked to AO(AN).

vi. The AO(AN) submitted the vacancy position and that was approved by CDA.

A perusal of the office note makes it clear that the applicants were found violating Rule 3(1) (i) and 3-A of CCS (Conduct) Rules which are required to be dealt under the CCS (CCA) Rules. However, the respondents decided not to hold departmental inquiry against them and rather transferred them out.



14. Having gone through the submissions of rival counsels and the pleading and other material on record we note that moot issue in all the three OAs is whether the impugned orders are in conformity with the relevant guidelines/ rules. The applicants have assailed the impugned orders mainly on two grounds, first that the transfer of the applicants was in lieu of punishment; and second that the impugned transfer order was in violation of the guidelines under the CDA's transfer policy. The respondents, on the other hand, have maintained that the transfer order(s) was issued not as a punishment but in exigencies of public service. Further, the Transfer Policy of any organisation is in the form of an executive order which does not confer any enforceable right upon the officials and as there was no violation of any right of the applicants, the OA was not maintainable. They also held that Hon'ble Supreme Court through various pronouncements have settled the law on transfer which leaves little scope for judicial intervention in the instant case.

15. Hon'ble Apex Court in **Shilpi Bose Vs. State of Bihar&Others** reported in AIR 1991 SC 532 defined the limits of legal intervention in orders of administrative transfers as under:

"4. In our opinion, the courts should not interfere with a transfer which is 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 to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer is made 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. The High Court overlooked these aspects in interfering with the transfer orders."

Further, in the case of **S.C. Saxena Vs. Union of India &**



Others reported in (2006) 9 SCC 583, the Apex Court held that a government servant under orders of transfer should first join the place of transfer.

"... a Government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed..."

In the case of **State of UP Vs. Govardhan Lal** reported in AIR (2004) SC 2165 Hon'ble Supreme Court observed as under:

"... Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot be lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of

depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision."



In Kendriya Vidyalaya Sangathan v. Damodar Prasad

Pandey and others, reported in 2004(12) SCC 299, the Honourable

Supreme Court observed at paragraph 4 as under:

*"4. Transfer which is an incidence of service is not to be interfered with by Courts unless it is shown to be clearly arbitrary or visited by mala fide or infraction of any prescribed norms of principles governing the transfer (see **AbaniKanta Ray v. State of Orissa, 1995 Supp (4) SCC 169**). Unless the order of transfer is visited by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it (see **Union of India v. S.L.Abbas, 1993 (4) SCC 357**). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any operative guidelines or rules the Courts should not ordinarily interfere with it.*

16. The above judgments clearly settle the law that a government servant holding a transferable post has no vested right to demand posting to his choice place and it is for the administrative authority to decide where he should be posted. Also, an official under order of transfer should first report at the place of transfer and then approach the court to ventilate his grievances. **The conditions**

under which a Court can intervene in transfer orders are if the transfer is vitiated by mala fides or is made in violation of any operative guidelines/rules or has been ordered by an authority without competence.

17. The Counsel for respondents has averred that the Transfer Policy of a Ministry/Department being an executive order confers no enforceable right on the officials and a Court should legally not intervene in a transfer order on the grounds of violation of transfer policy alone. This assertion is not in conformity with the ratio of above judgments of Hon'ble Supreme Court that Courts can intervene if the transfer order is in violation of operative guidelines/rules because transfer policy of a Department/Ministry is nothing but operative guidelines. In this regard the judgment of Hon'ble Supreme Court in **T.S.R Subramanian Vs Union of India** pronounced on 31.10.2013 in WP (Civil) No. 82/2011 is also relevant. Hon'ble Apex Court in this judgment stressed on the need for stability of tenure for government servants. Para 30 and para 31 of the Order reads as under:

"30. We notice, at present the civil servants are not having stability of tenure, particularly in the State Governments where transfer and postings are made frequently at the whims and fancies of the executive head for political and other considerations and not in public interest. The necessity of minimum tenure has been endorsed and implemented by the Union Government. In fact, we notice, almost 13 states have accepted the necessity of a minimum tenure for civil servants. Fixed minimum tenure would not only enable the civil servants to achieve their professional targets, but also



help them to function as effective instruments of public policy. Repeated shuffling/transfer of the officers is deleterious to good governance. Minimum assured service tenure ensures efficient service delivery and also increased efficiency. They can also prioritize various social and economic measures intended to implement for the poor and marginalized sections of the society.

31. We, therefore direct the Union, State Governments and Union Territories to issue appropriate directions to secure providing of minimum tenure of service to various civil servants, within a period of three months."



18. In pursuance of the above order the Department of Personnel & Training (DoPT), GoI issued guidelines to all the Ministries and Departments vide its OM dated January 9, 2014 to implement the above order and in response to the directive, different Ministries/Departments either formulated or reviewed their existing transfer policies. Transfer policy of a Ministry/Department defines the competence and procedure for transfer/posting of officers/officials. A transfer order in contravention of the guidelines cannot be claimed to involve public interest as the guidelines for transfer/posting itself has been issued in larger public interest. Also, the executive issuing such an order lacks the requisite competence which is bestowed through the guidelines itself. Hence, **we feel that a Court / Tribunal can intervene in transfer cases which are issued in contravention of the transfer policy.**

19. The office of CGDA, Delhi issued a transfer policy on 28.03.2014 to all its units to be followed by the CGDA office and the also field offices. Subsequently, CDA Patna issued own transfer

policy for its staff and officers of the rank of AAOs (Annexure -A/4 series). Features of the transfer policy issued by CDA, Patna and relevant to this OA are as under:-

- A. Categorisation of stations as Hard/Tenure stations and others. A tenure is required to be fixed for Hard/Tenure stations (Para 2.1).
- B. An Individual who has completed the prescribed tenure at a Hard/Tenure station will be asked to give three stations of choice in order of preference (Para 4.1).
- C. The normal tenure in other stations shall be three years [Para 3.2(b)].
- D. The general/rotational transfers including sensitive posting within the organisation shall be recommended by the Defence Accounts Placement Board (DAPB) of CDA, Patna and approved by the controller (Para 1.6).
- E. Exemption from transfer/deferment will be considered on education grounds where the child is studying in Class X and XII (Para 6.1 iv).
- F. These guidelines are not intended to create any entitlement of any kind, as ultimate criteria is administrative feasibility in office interest to man offices efficiently and effectively to the extent possible (Para 10.3).

20. It is indisputable that the applicants joined CDA, Patna in August-October 2018 on own choice after serving at hard stations and their transfeervide impugned orders was premature as the tenure at Patna is of three years. It is also admitted that the transfer orders impugned in the OAs was issued without recommendation of the DAPB. Further, the respondents showed no consideration to the applicants' daughters studying in Class X and class XII while deciding



their representation against the impugned orders. Para 10.3 of the Transfer Policy states that these guidelines are not intended to create entitlement of any kind and that the ultimate criteria for transfer is administrative feasibility and efficiency of the office functioning . However, para 1.6 of the Transfer Policy requires that general/rotational transfers including sensitive posting within the organisation shall be recommended by the Defence Accounts Placement Board (DAPB) of CDA, Patna and approved by the controller. Hence, the impugned orders issued without recommendation of DAPB and not being in conformity with the provisions relating tenure at normal station and exemption from transfer/deferment on the grounds of children studying in Class X or Class XII are in violation of the Transfer Policy of CDA, Patna.

21. The reason for transfer as mentioned in the office note is the failure of officials to maintain absolute integrity in performance of their official duty, acting in discourteous manner and adopting dilatory tactics in disposal of work. Such delinquencies constituting violation of Rule 3 (1)(i) and 3-A of CCS(Conduct) Rules 1965 needed to be dealt under the CCS(CCA) Rules. The applicants were asked to submit explanations why disciplinary proceeding should not be initiated for these allegations and the applicants submitted their replies. However, the respondents did not initiate action under the CCS(CCA) Rules for reasons best known to them and decided to transfer out the applicants. **Hence, the impugned transfer orders**



are not orders of transfer **simpliciter**, they are orders of punishment. It is settled law that transfer cannot be used as punishment.

22. Hon'ble Supreme Court in **Somesh Tiwari vs. Union of India and Others**, reported in (2009) 3 MLJ 727 in its judgement at para 19 and para 20 observed as under.



*"19. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where *inter alia mala fide* on the part of the authority is proved. Mala fide is of two kinds - one malice in fact and the second malice in law.*

20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.

Taking a similar stand, Hon'ble Karnataka High Court in **D M Sumithra Vs The Bangalore University** in its judgment delivered on 22 December, 2005 held at para 10 as under:

"10. It is settled law that for proved misconduct it is open to the employer to impose a punishment. But that misconduct is to be proved in a manner known to law. Before an order of transfer on the ground of misconduct is to be passed, the employer was under a duty to issue a charge sheet setting out the charges/misconduct alleged against the petitioner. After holding an enquiry, if the misconduct was held to be

proved, then it was open to the respondents to pass an order of transfer even by way of punishment. Admittedly, in this case, no enquiry was held. Except by issuing a notice without disclosing what is the misconduct alleged against her, by calling upon her to read certain paragraphs in the report of the Committee, she could not have been held guilty of the misconduct. The material on record clearly establishes the order of transfer impugned in this writ petition is not an order of transfer simpliciter. It is an order of punishment. It is an order which is passed by taking into consideration totally extraneous matters and therefore it is liable to be quashed."



A similar view has been expressed by Hon'ble Madras High Court in the judgment reported in 2006 (2) CTC 468 [S. Sevugan vs. The Chief Educational Officer, Virudhunagar District, Virudhunagar and Another] which observed at para 7 and para 8 as follows:

"7. *It is seen from the impugned order of transfer that it is passed on administrative ground, but it appears that the order was passed by way of punishment and based on the complaint against the conduct of the petitioner. If that be so, the petitioner is certainly entitled for proper opportunity to defend himself as to whether the complaints against him by the Public or by the Headmaster are proper or not by way of an enquiry.*

8. *In these, circumstances, this Court is of the view that the transfer order passed by way of punishment is without any opportunity to the petitioner and on the face of it, the order of transfer is illegal and the same is liable to be set aside. Accordingly, the impugned order is set aside."*

23. Taking the ratio of above judgments we find that the impugned transfer order(s) were passed in lieu of punishment and are hence against the settled law.

24. Based on above observations, we hold that the impugned transfer order(s) and the relieving orders were issued in violation of rules/guidelines and settled law on the subject. We feel that interest of justice would be served if impugned orders are annulled. Accordingly, the impugned transfer order dated 31.7.2020 (Annexure – A/1) and the reliving order of the same date (Annexure-A/2) in all the three OAs are set aside and quashed. All the three OAs, to the extent of these directions, are allowed. No order as to cost.



25. Main copy of this order will be kept in the records of OA No. 292/2020 and its copies will be placed in the records of OA No. 293/2020 and 294/2020.

**[Sunil Kumar Sinha]
Administrative Member**

Srk.

**[M.C. Verma]
Judicial Member**