

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
 OA/050/00243/2021

Date of Order :04.05.2021

C O R A M

HON'BLE MR. M.C.VERMA..... JUDICIAL MEMBER
HON'BLE MR. SUNIL KUMAR SINHA, ADMINISTRATIVE MEMBER



Surendra Prasad Singh, Son of Late Janeshwar Prasad Singh, Resident of Village-Karma Basantpur, P.O.-Kataiya, P.S.-Simra, District-Aurangabad (Bihar) 824202, presently working as Skilled Work Assistant (SWA) at Palmerganj site under Assistant Engineer, Upplk Sub-Division, Central Water Commission) (CWC) Gaya.

..... Applicant.

- By Advocate : ShriU.K.Mishra

-Versus-

1. The Union of India through the Secretary, Central Water Commission, New Delhi-110066.
2. The Chief Engineer, Lower Ganga Basin, Central Water commission, Amarnath Road Adalatganj, Patna-800001.
3. The Director (Monitoring)-cum-Superintending Engineer, Central Water Commission, Amarnath Road Adalatganj, Patna-800001.
4. The Executive Engineer, Central Water Commission, Middle Ganga Division-II, Patna-800001.
5. The Assistant Engineer, Central Water Commission, Upper Punpun Phalgu Lower Kiul Sub-Division (UPPLK), Gaya-823001.

..... Respondents.

By Advocate :- Shri H.P. Singh, Id. Sr. SC.

O R D E R | O R A L

M.C.Verma, Member (Judl.)

1. Assailing Transfer order dated 23.02.2021 whereby and where under the applicant has been transferred from Palmerganj to

Hatidah, this OA, with prayer of quashing of & ad-interim relief of stay of the impugned Transfer Order, has been preferred.

2. Today is the third date when this matter is on Board. Firstly this matter came on Board on 23.03.2021 and on that date notice was directed to be issued and when formal service of notice was waived of by counsel for respondents and granting opportunity to file written statement, on request of respondent's counsel hearing on interim relief was deferred to 27.04.2021.

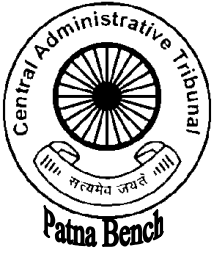


3. On 27.04.2021 counsel for applicant while pressing for interim relief in addition to other grounds also took the plea that representation of applicant is pending and applicant would be satisfied if decision on his representation be directed to be taken. Counsel for respondents on that date urged that he is having no instruction. Having passed a comprehensive order matter was adjourned for today. The order passed on 27.04.2021 is reproduced herein below :-

“Heard. Reply has not been filed. Learned counsel Shri H.P. Singh requests for further time of four weeks, to file reply. Counsel for applicant urged that interim relief is pending for adjudication, that transfer order impugned in the OA is not legally sustainable. That applicant's wife is cancer patient and applicant himself also being ill has been hospitalized. He request for stay of the transfer order. He also submits that representation of the applicant (Annexure A/5) is pending and the OA can be disposed of by directing the respondents to take decision on representation. Learned counsel for respondents submits that he is having no instruction relating to the representation.

In totality of matter it deems appropriate to adjourn the matter with direction to counsel for parties to seek instruction as if OA is disposed of with direction to disposal of representation, how much time the respondents authority would take to decide the representation and what should be status of the transfer order during the intervening period till disposal of the representation. Let a plain copy of this order be handed over to learned counsel for respondents.

On request adjourned to 04.05.2022.”



4. Today, learned Counsel Shri H. P. Singh, appearing for respondents submits that Covid pandemic is there, the office is working with 25% staff only, that no representation of the applicant was received in office and respondents authority came to know about his representation only after receiving of copy of the OA. He added that if the Tribunal passes the direction to dispose of the representation, efforts would be made to dispose of the same within one month. He also informed that applicant has since been relieved vide order dated 26.02.2021.
5. Counsel for applicant urged at this stage that applicant's wife is suffering from cancer so on request of him he was transferred to Palmerganj and he joined at Palmerganj on 18.08.2018. That tenure of posting at one place, as per policy of the respondents is three years, that period of three years after joining of applicant at Palmerganj has not yet passed and before expiry of three years applicant has been transferred . He also submits that applicant is going to superannuate on 30.08.2023. He did contend that the transfer order on one hand is not legally sustainable being premature and contrary to the transfer policy

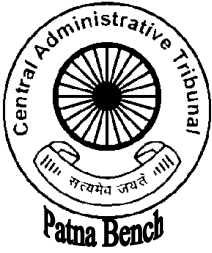
of the respondents whereas on other hand it is also against equity as wife of the applicant is suffering from cancer and superannuation of the applicant is also due in next year. He also urged that applicant presently is ill and has been hospitalized. He do admits that relieving order dated 26.02.2021 (Annexure A/8), of relieving of applicant from Palmerganj has since been passed but being hospitalized applicant has not joined at transferred place.



6. Counsel for applicant concluded his argument submitting that in spite of legal infirmities & lacunas in the transfer order, applicant would be satisfied at this stage if respondents be directed to consider and take decision on the representation, dated 16.04.2021 (Annexure A/2 of the OA) of the applicant and to keep the order of transfer and of relieving in abeyance till then. He also added further that in present surge of Covid it is also not possible to move for the place of transfer, at least with the family.
7. Learned counsel for respondents argued that transfer order is not suffering from any legal infirmities or lacunas and that it has been passed in administrative exigencies.
8. Considered the submissions. Having taken note of entirety and circumstances, it would be appropriate to dispose of the OA with direction to the respondents relating to the impugned transfer order. Accordingly, respondents are directed as under:-

(I) to consider and take decision on the representation dated 16.04.2021 (Annexure A/2) of the applicant at the earliest possible.

(II) Till no such decision on the representation of the applicant is taken, transfer order dated 23.02.2021 (Annexure A/1), impugned in the OA, shall remain in abeyance.



(III) If the decision on the representation comes against the applicant, the transfer order shall remain in abeyance for further period of two weeks, to be counted from the date of decision. Whatsoever decision on the representation is there, the same shall be communicated forthwith to the applicant.

9. Needless to say that In view of aforesaid direction, order dated 26.02.2021 (Annexure A/8), of relieving of applicant from Palmerganj would have loss its sanctity and therefore, after decision on the representation the applicant, if needed fresh relieving order may be passed.

10. With aforesaid observation and direction, the OA is disposed of.

[Sunil Kumar Sinha]
Member (A)

[M.C. Verma]
Member (J)

Pkl/