

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENTH
ALLAHABAD

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

ORIGINAL APPLICATION NO. 1217 OF 2007

...Applicant.

Versus

1. Union of India through the Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs, Krishi Krishi Bhawan, New Delhi.
2. National Test House, through its Director General C.P. Block, Sector-V, Saltlake Kolkata.
3. Director General National Test House, C.P. Block, Sector-V, Saltlake, Kolkata.


ORDER

The applicant was initially appointed on 31.5.1983 as Assistant Director (Rubber Plastic and Textiles) at National Test house, Chennai. He was promoted from Scientist SB to Scientist SC in July 1984. He was eligible for next promotion as Scientist SD after five years. Due to unknown reasons, promotion could not be held from 1999 to 2002, but the Department Assessment Board (in short DAB) met in 2003 and clubbed all eligible candidates between 1999 to 2002. The applicant's case was rejected in 2003 and he was finally promoted in 2005 from the date of actually assuming charge, whereas other before him, were

given promotion from the actual date of eligibility. The applicant moved for review DPC but his case was rejected vide order 6/10.2.2004. Aggrieved by this, he filed Misc. Writ Petition no. 23125 of 2004 and Hon'ble High Court of Allahabad vide order dated 22.6.2004 called for the proceedings and records of the DAB held in 2003. Meanwhile, the applicant was promoted to the post of Scantiest SD on 26.10.2005. According to the applicant to restrain him from pursuing the Writ petition in the High Court, he was transferred from Ghaziabad to Chennai vide order dated 20.2.2006. The applicant filed another Writ Petition no. 12586 of 2006 challenging the above transfer order and Hon'ble High Court vide order dated 27.2.2006 stayed the operation of the impugned order. Both the Writ petitions were connected and dismissed vide order dated 8.10.2007 on the ground of alternative remedy being available. Immediately after order dated 6.12.2007 the orders staying the earlier transfer order were withdrawn and subsequently impugned order dated 7.12.2007 was passed reliving the applicant from Ghaziabad with direction to join at Chennai. By filing this O.A., the applicant has sought the following relief(s):

- (a) to set-aside the impugned transfer orders dated 20.2.2006, 6.12.2007 and 7.12.2007.
- (b) to post the applicant and his wife who is an also employee of NTH either at Ghaziabad or Kolkata.

2. In the counter affidavit filed by them, the respondents have stated that because the applicant was a senior officer, he was transferred to Chennai to give a boost to performance in Chennai. When his representation to reconsider his transfer was rejected, he filed a Writ petition and secured an interim stay. Accordingly, the order of transfer was kept in



abeyance and as soon as his two Writ petitions were dismissed by Hon'ble High Court, the transfer order to Chennai was again made operative and he was relieved. His request for advance TA was also considered and a cheque of Rs. 60,000/- was drawn in his favour, but the applicant filed O.A. no. 1223 of 2007, which was dismissed as withdrawn on 19.12.2007 and has now filed the present O.A. against the transfer order.

3. The respondents have made out a case that on account of targets being given, a senior officer was required to be posted at Chennai and the applicant's transfer is totally in public interest. The applicant has tried to show the malafide intention on the part of the Director, NTH, but has neither made him a party, nor has provided any evidence of malafide intention. It has also been stated that the Department Assessment Board is chaired by Chairman/Member of UPSC and, therefore, there was no intentional delay in promotion of the applicant. It has also been stated that the wife of the applicant has also been offered a post at Chennai, but the same has been declined by her. The applicant is holding a post, which is liable to be transferred any where in India and, therefore, no grievance is made out. During the course of arguments, it was also informed that the applicant has already joined at Chennai and is working there.

4. Having heard both counsel and perused the records on file, it is apparent that the applicant is holding a post, which is transferable any where in India. He has been transferred in the interest of work and since his wife is also in the same organization, she has also been offered a posting at the same place as

