

(15)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.783 OF 2007

ALLAHABAD THIS THE 26<sup>TH</sup> DAY OF AUGUST 2008

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

Anil Kumar Dhondial, aged about 49 years,  
Son of Shri S.P. Dhondial, R/o Flat No.8,  
Income Tax Colony, Swroop Nagar, Kanpur.

..... Applicant

By Advocate : Sri K. P. Singh

Versus

1. Union of India through Secretary,  
Ministry of Finance, Govt. of India,  
New Delhi.
2. Under Secretary, Govt. of India,  
Ministry of Finance, Department of Revenue,  
Central Board of Direct Taxes, New Delhi.
3. Chairman, Central Board of Direct Taxes,  
North Block, New Delhi.
4. Chief Commissioner of Income Tax (CCA),  
Kanpur.

..... Respondents

By Advocate : Sri Anil Dwivedi

With

**ORIGINAL APPLICATION NO.784 OF 2007**

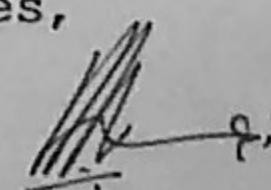
Anil Kumar Srivastava, aged about 48 years,  
Son of Late R.R. Srivastava, R/o Payal Enclave,  
West Canal Road, Mazra, Dehradun.

..... Applicant

By Advocate : Sri K. P. Singh

Versus

1. Union of India through Secretary,  
Ministry of Finance, Govt. of India,  
New Delhi.
2. Under Secretary, Govt. of India,  
Ministry of Finance, Department of Revenue,  
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North Block, New Delhi.

4. Chief Commissioner of Income Tax (CCA),  
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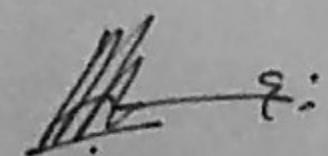
..... Respondents

By Advocate : Sri Anil Dwivedi

O R D E R

Both the OA's are heard and disposed of by this common order, as the issues involved in both OAs are similar, and the contention of both the parties are similar and identical.

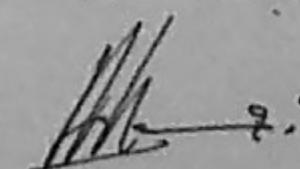
2. This application is filed challenging the order of transfer dated 23.05.2007 passed by the respondents. By order no.75/07 in all 227 persons were transferred by the respondents but some of the respondents also challenged the order of transfer before the Central Administrative Tribunal, Bombay Bench, Mumbai, and further the Bombay Bench, Mumbai has earlier granted the stay order, and subsequently the Central Administrative Tribunal, Bombay Bench, Mumbai has passed final order on 20.08.2007 considering the rival contention of the parties in detail and allowed the OA's the copy of the same is also produced in the RA by the applicant's counsel. Based on this the learned counsel for the applicants submits that having regard to the fact that the final order has been passed by the other bench allowing the OAs setting aside the order of transfer passed by the respondents so far as the applicants are concerned and in view of that the present applicants are also similarly placed and challenged the same impugned



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order of transfer which is once challenged in the aforementioned OA's by the other applicants before the Bombay Bench the same relief can be granted to the applicant herein also. The respondents have filed the counter affidavit and contended that the grievance of the applicant cannot be considered having regard to the nature of the facts and circumstances of the case as they are challenging the order of transfer, which does not call for interference in that view of the matter in the supplementary affidavit also it is stated with regard to the order passed by the Bombay Bench, that it pertain so far as the applicants are concerned in that O.A. therefore, the same cannot be a precedent for application to this OA, and further it is stated that even though the order is passed by Bombay Bench, Mumbai and the same is challenged before the Hon'ble High Court of Bombay and the writ petition was dismissed and they are taking steps to prefer appeal against the same before the Hon'ble Supreme Court, therefore, the said order cannot be applicable in this case and the OA be dismissed.

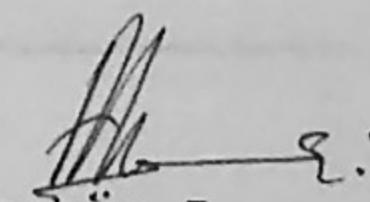
3. I have heard the learned counsel for the parties and perused the pleadings and the materials on record. Having regard to the admitted facts between the parties that the impugned order of transfer challenged in this OA dated 28.05.2007 by which number of persons are transferred by the respondents department some of them approached this Tribunal and some of them approached Central Administrative Tribunal, Bombay



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Bench, Mumbai and it is not disputed that with regard to the orders passed by the Bombay Bench, Mumbai allowing the said OA filed by the applicant therein and granted the prayer and set aside the transfer order holding, that the transfer order has been passed in violation and contravention of the Transfer Policy 2005, particularly para 3.1 (b) of the said policy and further held that the respondent have themselves admitted that there has been violation of the transfer policy. Having regard to the same the present OAs are allowed, for the reasons given in the order of Bombay Bench, Mumbai as the reasons and the discussions therein are similarly applicable to the present case also.

4. In that view of the matter the OAs are allowed the impugned order is therefore quashed and set aside. So far as applicant are concerned, the respondents are directed to give effect of this order within a period of one months from the date of receipt of a certified copy of this order. No Costs.

  
Member-J

/ns/