

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 497/2006

this the 20th day of November, 2006

Smt. Hari Joshi

Applicant

By Advocate: Sri S.S.L. Srivastava

Versus

Council of Scientific and Industrial Research through its
Joint Secretary and others

By Advocate: Shri P.K.Srivastava B/h for Sri A.K.Chaturvedi

Respondents

Hon'ble Shri M. Kanthaiah, Member (J)

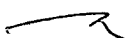
The applicant has filed this O.A. to quash the impugned transfer order dated 8.9.2006 (Annexure 1) issued by Respondent No.3 transferring the applicant from Library Branch to Establishment II Branch of the Central Drug Research Institute (CDRI) Lucknow. By way of interim relief, she sought stay of operation of the impugned order till disposal of the main application, which is coming for decision.

2. The respondents filed objection opposing the claim of the applicant for grant of interim relief.

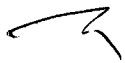
3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for grant of stay of operation of impugned order covered under Annexure I dated 8.9.2006,

5. The admitted facts of the case are that the applicant was initially engaged as Casual Worker w.e.f. 1st October,



1986 in sponsored project/ scheme tenable at CDRI, Lucknow. Subsequently, she was engaged w.e.f. 1.4.90 in the National Information Centre for Drugs & Pharmaceuticals Scheme, sponsored by the Department of Science and Technology tenable at CDRI, Lucknow which continued upto 30th June, 1992. Subsequently, he was engaged w.e.f. 1.7.92 in the Department of Ocean Development, Govt. of India, Scheme/ Project tenable at Central Drug Research Institute, Lucknow and she is continued in the said scheme. Wages of the applicant was being paid from the fund of the respective project/ scheme. The respondents also identified the applications under the Casual Workers Absorption Scheme of CDRI of 1995 for absorption and as per the said scheme, the applicant who is eligible for absorption on the post of Group 1 (1) pay scale Rs. 2550-3200 made application on 7.8.2006 which is pending for consideration. Annexure O-4, O-5, A-5 and A-6 reveals the same. After receiving the impugned order covered under Annexure A-1, when the applicant made representation dated 29.9.2006 (Annexure A-3), requesting the respondents for continuance of her posting in the Library, rejected her request for retention in the Library covered under Annexure A-2 dated 5.10.2006. During the pendency of the proceedings, the respondents also issued modification order covered under Annexure O-3 dated 9.11.2006 stating that the applicant did not report to the Estt. II Branch and thus issued direction to deploy the



applicant with Dr. Ram Raghubir under DOD Project at CDRI with immediate effect.

6. It is also not in dispute that under the impugned order (Annexure 1) dated 8.9.2006, the respondents No.3 has effected the transfer of three others of CDRI who are the regular employee along with the applicant. Annexure A-7 and A-8 are the certificates issued by In-Charge and also Dy. Director and Head, Documentation & Library Services Division & NICDAP stating that she has been working satisfactorily and also attended computer work and she acquired a fairly high level expertise in OPAC (On line Public Access Catalog) in the Library Branch.

7. Admittedly, the applicant was appointed as Casual Worker right in the beginning i.e. 1985 and even now she has been working in the same category but under different projects taken up by the CDRI and as such she has been working as Casual worker in the institute.

8. The main arguments for the learned counsel for applicant is that the transfer of the applicant from the library branch where she has been continuously working for more than 20 years to other branch of Estt. is with malafide intention and argued that such a transfer is against the rules and procedures. Though under the impugned order under which the applicant along with 3 others have been transferred from one branch to another branch of the same institute has been described as transfer order. but in the revised order covered under Annexure A-2, the office has

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clarified that the applicant has been deployed to other branch i.e. with Dr. Ram Raghubir as she did not join her earlier posting covered under Annexure A-1. From this it is clear that the change of the applicant from one branch i.e. Library to Estt. II are subsequently modified covered under Annexure A-2 are only by way of deployment of her job for one branch to other branch of the same project. Merely showing the description of impugned order as transfer order which includes 3 other regular employees of the Department does not say that the applicant who is working as Casual Worker has been transferred. As such the arguments of the learned counsel for the applicant that the respondents have transferred the applicant, who is a casual worker is against the rule, is not tenable.

9. It is also the contention of the applicant that because of her transfer from the present branch of Library where she has been working for more than 20 years to other branches of Establishment or others will create a problem in assessing her performance for her absorption in Group 1 (1) which is under consideration of the respondents. But absorption for the post of Group 1 (1) is not meant for Library Branch and when their requirement of such post is for their institute assessing or non assessing the performance of the applicant in the existing branch of Library is not at all a criteria for denying her absorption and as such the said argument of the learned counsel for the applicant is not

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helpful for stay of operation of the impugned order covered under Annexure A-1.

10. When the deployment of the applicant is from one branch to another of the same institute causing any harassment to her is not all correct. Further the nature of appointment of the applicant as Casual worker was not meant for work only in the Library Branch and no material is placed to show that the appointment of the applicant was either for working in Library Branch to attend only the work of Library Branch. When the applicant has been shifted from one branch to other branch of the same project in the same premises without changing her nature of job as casual worker causing any hardship to the applicant does not arise.

11. In view of the above, there is no prima facie case for grant of stay of operation of the impugned order covered under Annexure -1 and also no balance of convenience is in favour of the applicant. Further by shifting the applicant from one branch of the same institute to another branch of same premises causing of any loss or damage also does not arise. As such, the application for grant of interim relief is liable to be dismissed.

12. In the result, the claim of the applicant for grant of interim relief for stay of operation of impugned order covered under Annexure A-1 is dismissed.

HLS/-

Member (J)

20.11.06