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OA No. 228//06 with O.A. 155/07

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

**OA No. 228 of 2006 with O.A. No. 155 of 2007**

Date of order : 20 November, 2007

**C O R A M**

Hon'ble Mr. Amit Kushari, Member[Admn.]

Sanjay Kumar Rai, S/o Late Dr. Udai Narayan Rai, resident of  
Village – Darampur, P.S. - Phelphna, District – Balia.

..... **Applicant**

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1. The Union of India through the Secretary, Govt. of India Ministry of Home, Rajbhasha Bibhag, 1st Floor, Lok Nayak Bhawan, Khan Market, New Delhi.

2. The Director, Central Hindi Training Institute, 7<sup>th</sup> Floor, Paryawaran Bhawan, CGO Complex, Lodi Road, New Delhi.

3. The Deputy Director, East Region, Hindi Teaching Scheme, Raj Bhasha Bibhag, 2<sup>nd</sup> Multi Story Building, Nizam Palace Complex, 234/4, AJC Bose Road, Kolkata – 20.

4. The Officer-in Overall Charge, Hindi Teaching Scheme, GPO Complex, Sub Station Building, 2<sup>nd</sup> Floor, Patna.

..... **Respondents**

Counsel for the applicant : Shri J.K.Karn

Counsel for the respondents : Shri D. Surndera, ASC

### ORDER

By Amit Kushari, Member [A] : -

Shri J.K.Kam, ld. counsel argued on behalf of the applicant and Shri D. Surendera, ld. ASC argued for the respondents. Their arguments were heard and the pleadings were perused carefully.

2. The applicant is a LDC working in the Hindi Teaching Scheme Raj Bhasha Department, Patna and he has been working in the Patna Office since 1995. In the Raj Bhasha Department, the State of Bihar was a part of Central Region with headquarters in Jabalpur. However, on 20<sup>th</sup> April, 2005, there was a restructuring of the Raj Bhasha Department and the headquarters of Central Region at Jabalpur was shifted to Guwahati and all the States in the North East Region came under its jurisdiction. Bihar – which was part of the Central Region, was now made a part of Eastern Region with headquarters at Kolkata. Accordingly, vide office memorandum issued on 17.6.2005, the applicant was asked to choose any of the five regions he would like to go, as a result of restructuring, Guwahati, Kolkata, Delhi, Mumbai and Chennai. The applicant opted for Eastern Region with headquarters at Kolkata and, accordingly, he was transferred to Kolkata, but he was placed at the bottom of the seniority list of LDC. The applicant was appointed as LDC on 20.10.1980 whereas all

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the LDCs of Kolkata were much junior to him being appointed in 1998, 1999, 2000 and 2004. This ignominy was not acceptable to the applicant and he refused to move to Kolkata. Thereafter, on 31.1.2007, the applicant was informed that if he does not go and join in Kolkata as a junior most LDC, he will be transferred to Guwahati and there his seniority will be protected. Thereafter, on 26<sup>th</sup> February, 2007 he was transferred to Guwahati and that order dated 26<sup>th</sup> February, 2007 mentions that the applicant "had been transferred to Kolkata Office on his own request".

3. Shri J.K.Karn, ld. counsel for the applicant while arguing the case on behalf of the applicant points out that it is totally wrong to say that the applicant had "requested" [anurodh kiya] for his transfer to Kolkata. Government had restructured the department and the State of Bihar became a part of the Eastern Region with headquarters at Kolkata. Six options were given to him and out of six options he had chosen Kolkata as his first choice. This surely did not mean that he was seeking his transfer to Kolkata on his own volition. Therefore, the attempt of the respondents to portray his transfer as on own request is totally wrong and, therefore, he cannot be placed at the bottom of the seniority list of Kolkata Office. He says that the applicant is the senior most LDC having been appointed much before all the other LDCS at Kolkata. He cannot be shifted to Guwahati

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just because the Jabalpur office has been shifted to Guwahati, since he has officially opted for the Eastern Zone.

4. The ld. counsel for the respondents points out that the applicant had shown indiscipline by repeatedly disobeying the transfer order. Once he has given his option for Kolkata, he had to move to Kolkata but instead of moving to Kolkata, he refused to leave Patna Office which has been virtually closed down due to the restructuring of the department and there is nobody in the office except one Group 'D' employee who is also going to retire next year. The ld. counsel for the respondents points out that the applicant has shown gross indiscipline and now that he has been transferred to Guwahati, he must report to Guwahati to which region [Jabalpur originally] he belongs to, and at Guwahati, naturally his seniority will be protected from the beginning as the applicant is an employee of the Central Region, which is now operating from Guwahati.

5. I have carefully heard the arguments of both sides. It is obvious that the applicant had not requested for a transfer to Kolkata but after the restructuring, he was given six options as he had to move out of Patna. Therefore, he chose Kolkata under compulsion because it is closer to Patna. If he could have his own choice, he would have liked to continue at Patna Office for ever. It was quite wrong on the part of the respondents to

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have declared that he had made request for a transfer to Kolkata. There is a clear difference between moving on option and moving on request. In this case, it is a case of moving on option and, therefore, there are no reasons to place him at the bottom of the seniority list of Kolkata – specially when he was appointed much before all the other LDCs in Kolkata. This would be not only unjust but also deeply humiliating and unfair. Under these circumstances, therefore, his behaviour cannot be termed as an act of indiscipline. The applicant cannot be forced to move to Guwahati just because his headquarters at Jabalpur has moved to Guwahati as a consequence of restructuring of the department. If the Govt. had to force him to go to Guwahati, they should not have given him six options for choosing among them. The respondents, therefore, must give the applicant his due seniority in the Kolkata Office and he should be allowed to move to Kolkata for which he has given option. He cannot be forced to move to Guwahati and the order transferring him to Guwahati is, accordingly, quashed.

6. With these directions, both the O.As [O.A. No. 288 of 2007 and O.A. No. 155 of 2007] stand disposed of. No costs.

  
[ Amit Kushari ] [M/A]

mps.