

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.558 of 1996

Date of Order: 1.5.96

Between:

K.J.SUNDER RAO

.....APPLICANT

and

1. The Director General,
Central Bureau of Investigation,
C.G.O.Complex, 3rd Floor, GOI,
New Delhi-110 003,
2. The Assistant Director (E),
Central Bureau of Investigation,
Kendriya Karyalaya Parisar, GOI,
Block No.3, 4th Floor, Lodhi Road,
New Delhi-110 003,
3. The Superintendent of Police,
Central Bureau of Investigation,
Kendriya Sadan, GOI,
Sultan Bazar,
Hyderabad 500 195.

..... Respondents

COUNSEL FOR THE APPLICANT: Mr.M.VIJAYA KUMAR

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVARAJ,
Standing Counsel.

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri Meherchand Norie for Shri M.Vijaya Kumar, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant herein is Inspector in the Central Bureau of Investigation presently working at Hyderabad

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under the control of R-3.

The order No.A-20014/1199/90/AD-I (Office Order No.836/95) dated 15.6.1995 transferring him in the same capacity to New Delhi was issued. This transfer order is assailed in this OA.

3. The applicant was transferred way back on 15.6.1995. He submitted his representation against this transfer only on 30.10.1995 (Annexure VI addressed to Deputy Director (Admn.), CBI, New Delhi). It is not known why he took four months for submitting his representation against the transfer. Be that as it may, when he has not received any reply to that representation, he kept quiet and approached this Tribunal by filing this OA on 30.4.1996. This delay in approaching this forum also is not understood. In any case, I do not propose to express any opinion in regard to the delay.

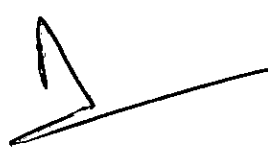
4. The main contention of the applicant in challenging this transfer order is that he was sick and the transfer order was issued when he was on leave due to sickness and issue of this transfer order under such circumstances is not called for. The second contention is that this transfer was issued on public interest and transfer orders are not issued on public interest but on only administrative grounds. Hence the learned counsel for the applicant ^{submits} ~~feels~~ that this transfer order issued on public interest is a strange one and such transfer

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order cannot be issued on public interest.

5. The learned standing counsel for the respondents submitted that the applicant had served at Hyderabad in various capacities in Central Bureau of Investigation for the last 23 years and hence there is nothing strange in transferring him outside Hyderabad when he has put in a very long service in Hyderabad. CBI being an All India organisation, the applicant is liable for transfer through out India and such a transfer cannot be treated as malafide or issued in violation of statutory rules. It is further submitted by the learned standing counsel that the transfer order was issued when the applicant was on duty. But immediately after the transfer order was issued, he reported sick and he was relieved after he had reported sick. Hence the learned standing counsel ~~felt~~ ^{stated} that the Office order transferring him was issued while he was on duty and to avoid transfer order, he had reported sick and hence relieving him at the time when he was under sick cannot be treated as malafide intention on the part of the respondents.

6. The learned counsel for the applicant further submitted that though he had worked in this organisation at Hyderabad for the last 23 years, he worked as Inspector only for few months after his promotion recently and hence his stay as Inspector in Hyderabad is only a short period and on that basis he should be retained in Hyderabad.



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7. I do not propose to express any opinion in this connection in regard to the transfer. If some opinion is expressed, advantage may be taken either by the respondents or by the applicant for strengthening their case. It is preferable that no opinion is expressed but I leave it to the concerned authorities to take judicious decision on the face of the facts of this case.

8. However, I would only like to say that the transfer order can be issued on public interest. The submission of the learned counsel for the applicant that issue of transfer order on public interest is not borne out by any rules or regulation *Annexure accepted*.

9. As stated earlier, the applicant had submitted his representation against his ~~transfer~~ only on 30.10.95 (Annexure VI). That representation is reported to have been unanswered so far. In view of the above, the applicant may submit a further representation in addition to the representation dated 30.10.95 to the concerned authority within a period of 21 days from the date of receipt of a copy of this order. After such a representation is received, the concerned authority will dispose it of in accordance with rules within a month from the date of receipt of such a representation taking into account the earlier representation dated 30.10.95 (Annexure VI) ^{also} *L* if the earlier representation dated 30.10.95 has not already been disposed of.

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10. The next grievance of the applicant is that he has not been paid for the period he is on sick leave. He further submits that he had submitted a sick memo from Central Government Health Scheme authorities (at page 13). He prays that a direction may be given to pay him leave salary as he had submitted the medical certificate.

11. The learned standing counsel for the respondents submitted that the leave records of the applicant had already been sent to Delhi and that the authorities here do not possess any leave record to sanction him the leave. If that is the case, some provisional sanction of leave can be granted to the applicant to the extent the authorities feel that he has got leave either full pay or half pay. If they do not have any idea about leave particulars of the applicant, they can obtain the same from CBI authorities at Delhi and after ascertaining, leave may be granted to him in accordance with rules. If any excess leave is granted, the same can be adjusted after he 'joins' at the appropriate station. As the applicant has got long service still to go, any extra leave granted for which he is ^{not} entitled can be adjusted without any difficulty.

12. In view of what is stated above, the following direction is given:

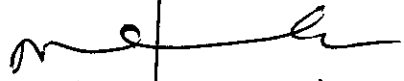
The applicant should submit a detailed representation against his transfer to the concerned



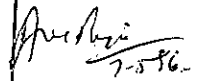
authority (it is stated by the learned standing counsel for the respondents that the appropriate authority for submitting representation is the Joint Director (Administration), Central Bureau of Investigation, Lodhi Road, CGO Complex, New Delhi) within a period of 21 days from the date of receipt of a copy of this order. If such a representation is received by the concerned authority by Registered Post Acknowledgement Due within 21 days from the date of receipt of a copy of this order, the concerned authority should dispose of the same within a period of 45 days from the date of receipt of a copy of the representation. The earlier representation dated 30.10.95 (Annexure VI) should also be disposed of along with the fresh representation if the earlier representation is not disposed of by now.

13. The applicant should be granted sick leave either half pay or full pay based on the recommendation of the concerned medical authorities at Hyderabad provisionally subject to the same being adjusted later when he reports at the appropriate station. If the concerned authority at Hyderabad is hesitant to sanction leave, ^{they} ~~he~~ should obtain leave particulars from Delhi office within a period of 15 days from the date of receipt of a copy of the order and the leave available to his credit should be granted on the basis of the medical certificate referred to above.

14. The OA is ordered accordingly at the admission stage itself. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 1st May, 1996
Open court dictation


7-5-96

Copy to:-

1. The Director General, Central Bureau of Investigation, C.G.O. Complex, 3rd floor, GOI, New Delhi.
2. The Assistant Director(E), Central Bureau of Investigation- Kendriya Karyalaya Parisar, GOI, Block No.3, 4th floor, Lodhi road, New Delhi-003.
3. The Superintendent of Police, Central Bureau of Investigation, Kendriya Sadan, GOI, Sultan Bazar, Hyderabad-195.
4. One copy to Sri. M. Vijaya kumar, advocate, CAT, Hyd.
5. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

14/5/96
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COMPARED BY

7/5/96
CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

DATED: 1/5/96

ORDER/JUDGEMENT

M.A. NO/R.A./C.A. NO.

IN

B.A. NO.

558747

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

No full copy

