

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Jaipur, the 24rd day of November, 2015

ORIGINAL APPLICATION No. 291/00255/2015

CORAM :

HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Umesh Chand Son of Prabhoo Singh, Aged 55 years, resident of House No. 22, Sector 10, Jal Vayu Vihar, Vidhyadhar Nagar, Jaipur working as ACIO-II, At BOI, ICP, Munabao (SIB, Jaipur)

... Applicant

(By Advocate: Mr. Sumit Khandelwal)

Versus

1. Union of India, through the Secretary, Department of Home Affairs, Government of India, North Block, New Delhi.
2. Director, Intelligence Bureau Ministry of Home Affairs, Government of India, North Block, New Delhi.
3. Joint Director, Subsidiary, Intelligence Bureau, Ministry of Home Affairs, Government of India, 2-B, Lavan Marg, Jhalana Doongri, Jaipur.

... Respondents

ORDER

Per Hon'ble Ms. Meenakshi Hooja, M(A)

This OA has been filed u/s 19 of the Administrative Tribunals Act, 1985 by the applicant seeking directions to the respondents to consider the case of the applicant for transferring him to SIB, Jaipur (District Bhartpur Unit) in pursuance to the

memorandum dated 17.10.2014 issued by Intelligence Bureau, Ministry of Home Affairs, Government of India.

When the matter came up for consideration and hearing today, the learned counsel for the applicant, referring to the averments made in the OA, submitted that the applicant is working as Assistant Central Intelligent Officer (ACIO) in the Intelligence Bureau, Ministry of Home Affairs. As brought out at page No. 3 and 4 of the OA, 14 persons of this cadre along with the applicant (reference order dated 17.03.2011 Annexure A/2) were posted at IPC-Munabao in March 2011 and all except the applicant have subsequently been transferred out from there which is a hard station but till today, it is only the applicant who is serving for last more than four years at Munabao, Further even 7 persons who joined at ICP Munabao later in September- 2011, ^{out} have also been transferred from there.

Counsel for the applicant referred to Memorandum dated 05.12.2013 of the Intelligence Bureau annexed with Annexure A/6 in which para 2 and 5 provide for rotation in every 02 years and further that continuance of BOI personal in a particular set up beyond 3 years should be purely an exigency basis and vigilance clearance. Further Memorandum dated 17.10.2014 (Annexure A/8) has also provided to accommodate officials/officers to the place of their choice, taking into consideration the vacancy, requirement and requests of other

officers with reference to the points mentioned in the reply, that the applicant was actually working in Bharatpur for about 02 years, Counsel for the applicant submitted that the posting of the applicant was continuing at Munabao and referred to Annexure A-9 (filed with the rejoinder) which clearly indicate that the applicant has been posted at Munabao from 01.04.2011. He further contended that despite there being directions and Memorandums of the Ministry regarding rotation and change in posting , he has not been given posting of his choice, though others have been shifted from Munabao, which is a hard posting. Counsel for the applicant further reiterated that the applicant submitted notice for justice on 16.04.2015 (Annexure-1) and representation (Annexure A-3 and A-4) but his case has not been considered and therefore prayed that direction be given to the authorities to transfer the applicant to SIB Jaipur and place him in Bharatpur District ^{per contra}, Learned counsel for the respondents ,referring to the reply, submitted that the OA of the applicant is liable to be rejected on preliminary grounds as the applicant has no legal right to get transfer/posting on his choice place. It is for the competent authority to decide, where the applicant shall remain posted. He referred to the judgement of the Hon'ble Supreme Court, in the case of Rajendra Singh V/s State of U.P. (2009) 15 SCC 178, where in it has been observed that "the Courts are always reluctant in interfering with the transfer of an employ unless such transfer is vitiated by



violation of some statutory provisions or suffer from mala fides.

Further, the Hon'ble Supreme Court observed that, it is for the State Government to decide about the place of posting."

Counsel for the respondent further contended that the facts submitted by the applicant are not correct that the applicant was has been at Munabao for more than 4 years. In fact the applicant was transferred from SIB Jaipur to Munabao in the public interest by the Competent Authority on 24.03.2011. However, he was allowed to continue at Bharatpur, which is his native place and even allowed allowances for Munabao, which are higher, while working in Bharatpur. There he indulged himself in a dispute with a family in Bharatpur and the matter reached at the level of Chief Secretary, Government of Rajasthan, Jaipur. Thereafter he was asked to join Munabao and refrain from such activities and the applicant joined there at 13.06.2013. Thus actually the applicant has worked at Munabao from 13.6.2013 and not from earlier date as made out by the applicant. In the content of the above facts contested and details given in the reply, and in view of the judgements of Hon'ble Apex Court, counsel for respondents prayed that the applicant has no case, and the OA lacks merit and may be therefore Therefore dismissed.

Considered the contentions of the learned counsels and ed perusal the record, It is noticed that the applicant was initially posted at Munabao vide order dated 17th March, 2011 (Annexure

after certain complaints he was

A/2) but as brought out in the reply he continued to work at Bharatpur his native place, and was thereafter asked to join Munabao ^{and he joined there and he joined there on} after certain which he complained did so on ^{far as far as}

13.06.2013. As per the guidelines and directions issued by the Ministry of Home Affairs as per Memorandum dated 5.12.2013

(Annexure A/6) and Memorandum dated 17.11.2014 (Annexure A/8) ^{are concerned are concerned}

it is for the authorities concerned to duly consider and ^{item in the cases of the Employees item} apply this. As laid down by the Hon'ble Apex Court in a catena

of judgment, it is a settled proposition of law, that Courts and Tribunals should not normally interfere in the matters of transfers and posting unless the orders are vitiated by violation of some statutory provisions or suffer from proven malafides or the order has not been issued by the competent authority, ^{and this}

^{which appears} does not appear so in the present case. Therefore there is no ground or justification to interfere with the orders of postings passed by the competent authority in the case of the applicant or to give any further directions in the matter as prayed for in the OA. Accordingly, in view of the facts and circumstances of the case, the OA lacks merit and is dismissed with no order as to costs.

However, if the applicant has any genuine difficulty or problems, he is always at liberty to approach the competent authority in respondent department for its redressal.

(Meenakshi Hooja)
Member (A)