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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

5.8.2011

OA 346/2011

Mr.C.B.Sharma, counsel for applicant.

Heard learned counsel for the applicant. The OA stands disposed of at admission stage, by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

K. S. Rathore

(Justice K.S.Rathore)
Member (J)

80000/-
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 05th day of August, 2011

ORIGINAL APPLICATION No.346/2011

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Patel Chand Sharma,
Trades Man-G,
O/o Director,
Electronics Test & Development Centre (ETDC),
Thiruvanthapuram (Kerala),
R/o 15, Shiv Shakti Nagar-B,
Jagatpura Road, Malviya Nagar,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt. of India,
Department of Information Technology,
Ministry of Communications & Information Technology,
New Delhi.
2. Director General,
Directorate,
Standardization, Testing & Quality Certification,
Department of Information Technology,
6, CGO Complex, Lodhi Road,
New Delhi.
3. Director,
Electronics Test & Development Centre (ETDC),
Malviya Industrial Area,
Jaipur.
4. Director,
E.R.T.L. (S),
Thiruvanthapuram (Kerala).

... Respondents

(By Advocate : - - - - -)

ORDER (ORAL)

The present OA is directed against the letter dated 10.1.2011 (Ann.A/1), by which the applicant has been directed to submit his application for sanction of leave on medical grounds before respondent No.4 at Thiruvananthapuram (Kerala).

2. We have thoroughly considered the grievance of the applicant. The applicant was working as Trades Man-G in the office of Director, Electronics Test & Development Centre (ETDC), at Jaipur, and transferred to the office of Director, ERTL (South), Thiruvananthapuram (Kerala), vide order dated 22.10.2010, against which the applicant preferred OA 476/2010 before this Tribunal. This Tribunal, vide order dated 3.12.2010 (Ann.A/3), while disposing of the said OA, observed as under :

"It is not permissible for me to scrutinize the order of transfer and investigate in the matter whether the transfer order was on account of allegation lodged in the complaints and the same was for extraneous consideration and for oblique purpose as alleged especially when the stand taken by the respondents in the reply is that basis for transferring the applicant was not so called complaint made by him but brutally manhandling and beating respondent No.5 and thus action was taken in order to maintain discipline the purpose of malafide. It is also relevant to mention here that the applicant is working in Jaipur since his appointment in the year 1983 and he has been only transferred after a lapse of 27 years, that too on account of his misbehavior with the superior officers."

With these observations, the OA was dismissed by this Tribunal and the interim order granted vide order dated 27.10.2010 also stood vacated.

3. Against the judgement rendered by this Tribunal on 3.12.2010 as well as the transfer order dated 22.10.2010, the applicant preferred a D.B.Civil Writ Petition [No.16229/2010] before the Hon'ble High Court. The Division Bench of the



Hon'ble High Court, having considered the submissions made on behalf of the applicant, observed as under :

"In the meanwhile, however, the petitioner would not be required to join at the place of his posting in accordance with the impugned order dated 22.10.2010 i.e. at Thiruvananthapuram."

Subsequently, vide order dated 7.2.2011, the Division Bench of the Hon'ble High Court confirmed the interim order dated 13.1.2011 and directed that operation of the order dated 22.10.2010 shall remain stayed. It was further directed that in the meanwhile, it would be open for the respondents, if they chose, to transfer the petitioner to any other place within 500 kms of Jaipur, bringing it to the notice of this Court and may apply for modification of this order and disposal of the petition.

3. However, being aggrieved by the aforementioned decision of the Division Bench of the Hon'ble High Court dated 7.2.1011, the respondents preferred Special Leave to Appeal (Civil) [No.6303/2011] before the Hon'ble Supreme Court of India, which has been disposed of vide order dated 25.4.2011 (Ann.A/6) observing as under :

"Mr.Rawal, learned Additional Solicitor General, submits that as per his instructions, for the present, there is no vacancy either at Mumbai or at Pune to accommodate the respondent. He, however, submits that as and when the next vacancy arises, the case of the respondent for posting him at either of the two places, shall be considered sympathetically. In view of the statement, learned counsel for the respondent states that his client shall join at Thiruvananthapuram, where he has now been transferred."

4. In that view of the matter, the petition before the Hon'ble Supreme Court as well as D.B.Civil Writ Petition No.16229/2010, pending before the High Court, were rendered infructuous and were disposed of accordingly.

5. Pursuant to the order passed by the Hon'ble Supreme Court, the applicant has joined his duty at



Thiruvananthapuram. However, he has again approached this Tribunal by filing the present OA for redressal of his grievance against the letter dated 10.1.2011 (Ann.A/1), by which he has been directed to submit his leave application [which he had submitted in Jaipur Office] before respondent No.4 at Thiruvananthapuram for consideration.

6. Having argued at length, learned counsel for the applicant submitted that the applicant may be given liberty to represent before respondent No.2 i.e. Director General.

7. In view of the submission made by learned counsel for the applicant, we think it appropriate to direct respondent No.2 that if any representation is submitted by the applicant, the same shall be considered by him in accordance with the provisions of law. He shall also communicate to the applicant the decision so taken on the representation.

7. With these observations, the OA stands disposed of at admission stage. No order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

K. S. Rathore
(Justice K.S.Rathore)
Member (J)

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