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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00807/2014

Date of Decision : 4.12.2014
Reserved on: 10.11.2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Raj Kumar, aged 47 years, son of Shri Mangal Singh, Stenographer, Sports Authority of India, Northern Regional Centre, Hockey Stadium, Sector 42, Chandigarh, resident of House No.266, Sector 44/A, Chandigarh.

Applicant

Versus

1. Sports Authority of India, Jawahar Lal Nehru Stadium, Lodhi Road Complex, New Delhi-110003 through its Director General.
2. Sanjeev Sharma, Director Incharge, Sports Authority of India, Sports Authority of India, Northern Regional Centre, Hockey Stadium, Sector 42, Chandigarh.
3. Ajit Singh, Deputy Director, Sports Authority of India, Northern Regional Centre, Hockey Stadium, Sector 42, Chandigarh.
4. P. K. Mattu, Assistant Director (Admn.), Sports Authority of India, Northern Regional Centre, Hockey Stadium, Sector 42, Chandigarh.

Respondents

Present: Mr. Bipan Sharma, counsel for the applicants
Ms. Geeta Singhwal, counsel for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

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"8 (ii) Quash the impugned office order No. SAI/RC/Admn./2014/2218-22, dated 29.08.2014 (Annexure A-9) issued by respondent no.2 transferring the applicant to Dharamshala against and non-existent and ex-cadre post being illegal, arbitrary, void without jurisdiction as having been issued by the lower authority, subordinate to the appointing authority of the applicant with malafide intentions and biased attitude in contravention of the law.

(iii) Declare that the applicant is repeatedly being unnecessarily harassed and victimized for raising voice against large scale multi corrs corruption as well as even after the decisions of two OAs against the respondents by this Tribunal whereby it was observed that the respondents are acting in contravention of the principles of natural justice with malafide intentions."

2. Background of the matter is that the applicant was appointed as Stenographer Grade 'D' in the pay scale of Rs.1200-2040 and joined as such on 29.07.1992. Copy of the appointment letter dated 24.07.1992 is at Annexure A-1. The applicant was granted the benefit under the ACP Scheme w.e.f. 29.07.2004 on completion of 12 years of service. Through order dated 29.08.2014, the Director Incharge of the Regional Centre, Sports Authority of India, Chandigarh ordered temporary attachment of the applicant with Assistant Director, STC till the completion of two enquiries being faced by the applicant in the present OA.

3. In the grounds for relief it has, inter-alia, been stated as follows:-

i) The appointing authority of applicant is Regional Director and the post of Director being the feeding cadre post to the post of Regional Director, is therefore, lower authority, subordinate to the appointing authority of the applicant. The service conditions of the applicant are governed by the regulations

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called the Sports Authority of India (Service Bye Laws and Conditions of Service Regulations-1992 and under the service regulations, the Regional Director is the appointing authority. The regulations have not been amended till date by the Governing Authority, which is only competent to amend these service regulations.

- ii) The disciplinary proceedings were and still are being initiated against the applicant and the applicant is being repeatedly transferred against a non-existent and ex-cadre post by the private respondents who are facing the CBI investigations at the instance of the applicant. Therefore, the impugned action of the respondents is contrary to the principles of natural justice as the petitioner was not only punished by the same officials against whom there were serious allegations of corruption, but the repeated disciplinary proceedings are being initiated and the applicant has further been transferred against a non-existent and ex-cadre post of Stenographer in contravention of the rule of law.
- iii) The malafide intention on the part of the respondents is patent on record, particularly filing of the criminal complaint dated 10.02.2014 against the applicant and simultaneously issuing the orders dated 10.02.2014 whereby the enquiring and the presenting officers were appointed by respondent no. 2.
- iv) The impugned orders were passed by the private respondent no.2 after two OAs were allowed by this Tribunal. The relevant paragraphs of the judgments are being reproduced as under:-

OA No. 269-CH of 2012, decided on 23.5.2012:

"4. The respondents do not dispute that the place to which the applicant has been ordered to be transferred does not have a sanctioned post. It is also not a matter of controversy that "The cadre of Group C & D employees shall normally belong to a region." (extraction from the counter).

Xx xx xx xx

8. It would be evident from a perusal of the impugned order that it does not even purport to have been issued in public interest. The drawl of an inference

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about the grant thereof having come about in Public interest would not be authorized in view of the fact that the transfer is being concededly ordered to a place which does not have a sanctioned post to be occupied by the applicant herein.....

Xx xx xx xx

9. It is the own averment on behalf of the respondent no. 1 that movement of Group 'C' and 'D' cadre employees is normally intra-region.....

Xx xx xx xx

13. In the totality of the circumstances of the case, it is held that the respondents are acting in violation of the principles of natural justice and fair play by having ordered transfer of the applicant to a place which does not have a sanctioned post to be occupied by the applicant..... The impugned order, too, does not even purport to have been issued in public interest"

v) OA No.1111//CH/2012 was decided on 01.05.2014, but the respondents had instead of complying with this order issued the impugned order dated 29.08.2014 qua the applicant.

Hence this OA.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicant is habitual litigant and is guilty of concealing several facts. Also in his pleadings wrong facts have been stated to mislead this Court in considering his request for cancellation of his temporary attachment. The applicant has filed the present OA against the order of his revocation of suspension and his temporary attachment to another office till completion of inquiries in three charge sheets in which Inquiry Officer has already been appointed and regular hearings are in

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progress. The suspension has been revoked on the request of applicant dated 21.08.2014(Annexure A-9). The applicant has given wrong statement and misguided this Court that the Director Incharge has no powers, whereas as per the Delegation of Powers on Administrative and Establishment matter circulated vide office order No. 65/2007, dated 16th May, 2007 issued by Director (Personnel) to the Regional Heads, the Director Incharge has full powers for transfer an employee and is also the appointing authority as well as Disciplinary authority of Group C & D employee (Annexure R-1). Respondent no.2 is not working under the Regional Director and is functioning independently being Regional Head as Director and has also been authorized to handle the cases of Group C & D employee at Regional level upto the level of High Court as per the policy circulated by the Secretary, SAI, vide circular dated 10.02.2014 (Annexed R-2). The applicant has concealed from the Court that he has been temporary attached with STC, Dharamshala till completion of the inquiry and has not been transferred as he is claiming in the Court.

5. Respondent No.2 being the disciplinary authority of the applicant who is Group C employee suspended the applicant on registration of FIR against him by the Chandigarh Police vide No.201 dated 12th July, 2012 (Annexure R-3). The applicant was arrested and is presently on bail and the Chandigarh Police has filed a Challan in the Court for his trial and next date of hearing in trial case has been fixed on

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14.11.2014. As per the guidelines of CVC and Conduct Rules, he has also been issued Charge Sheet for departmental inquiry for storing / keeping pornography material and doing private work in his official computer. A second Charge Sheet has been issued on the notice / order of CAT, Chandigarh Bench in OA No. 921/CH/2013, which was decided on 29.01.2014 (Annexure R-4) for tampering of official record and making a false complaint to Jammu Police against his colleague who was also a witness in one of the cases. He had made the complaint without taking the prior approval of the Competent Authority. He made three complaints to the Chandigarh Police against the Officers as well as the witnesses and dealing officers dealing with his disciplinary matter and Court case. These three complaints had been filed by the Chandigarh Police after the thorough investigation. He even made a complaint to the Chandigarh Police that if the case is not registered against the dealing Officers, he will commit suicide. The copies of the investigation reports are annexed at Annexure R-5. As per the CVC guidelines, a Deputy Secretary (Retd.) of the CVC, Govt. of India has been appointed as Inquiry Officer and Presenting Officer is also not posted in this Region. The applicant has not even attended the preliminary / regular hearings and also made false allegations against the Inquiry Officer just to delay the inquiry proceeding and malign the reputation of the Inquiry Officer. He is also not cooperating in the inquiry proceedings as the notices issued to him have not been

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received by him which have been returned back by the Postal Department as well as by the Special Messenger deputed by this office.

6. The suspension of the applicant was revoked by Respondent No.2 on the request of applicant dated 21.08.2014 and directions issued for his temporary attachment with STC, Dharamshala. The decision was taken for fair and natural justice to be given to the applicant and in the interest of the Organization as per the delegation of Power, under CCS Conduct Rules-10 and instructions of the Govt. of India dated 14.09.1978 (Annexed R-6).

7. It is further stated that OA No.506/CH/2011 & MA 85/2012 filed by the applicant has already been dismissed with the direction to file appeal before Appellate Authority. Instead of filing the appeal, the applicant filed CWP No.4605 of 2012 which was also dismissed vide order dated 14.03.2012 upholding the decision of the CAT. The applicant filed the SLP in the Hon'ble Supreme Court which was also dismissed vide order dated 18.10.2013 with the direction to file appeal to the Appellate Authority (Annexure R-8). The Hon'ble High Court in CWP No.16517/2008 dated 15.03.2013 has also observed that the petitioner has in a way misused the process of Court in making one approach after another without much justification and the CBI inquiry ordered on 15.03.2011 was withdrawn and his application dismissed (Annexure R-9).

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8. Arguments advanced by the learned counsel for the parties were heard in the matter. The sum and substance of the arguments advanced by the learned counsel for the applicant was that through the impugned order, the applicant had been transferred to STC Dharamshala while the Director Incharge who issued this order was not competent to transfer the applicant. On the other hand, learned counsel for the respondents stated that the applicant had not been transferred, through order dated 29.08.2014, but had only been temporarily attached with Assistant Director, STC till the completion of enquiry in the two disciplinary cases in which the applicant was involved. This order had been issued so that the applicant did not get opportunity to interfere in the inquiry proceedings. Moreover the suspension of the applicant that was ordered on 20.11.2013 had been revoked through the order dated 29.08.2014, but the presence of the applicant in the office of the Regional Director was not conducive to the smooth working of the office as the applicant was a habitual litigant who made false complaints against the staff working in the Centre. She further stated that the applicant had been attached with Assistant Director, STC, Dharamshala and through order dated 24.10.2014 that had been filed after the matter had been considered as per the interim order dated 01.10.2014 in the present OA, it had been conveyed that the applicant would be allowed leave to attend the departmental proceedings and the criminal cases at Chandigarh whenever he was required to do so.

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9. We have carefully considered the matter. From the content of order dated 29.08.2014 (Annexure A-9), it is evident that this is not a transfer order but the applicant has only been temporarily attached with Assistant Director, STC Dharamshala as per the orders of the Director Incharge of the Regional Centre. While the Director Incharge can certainly redeploy staff working in the Region for which he is Director Incharge if their services are required elsewhere but it is seen that temporary attachment of Sh. Raj Kumar has been ordered till the completion of the disciplinary proceedings that he is facing. We are unable to appreciate the reasoning in the matter since evidently the services of the applicant are not required in the STC, Dharamshala. The ostensible reason for ordering temporary attachment of the applicant at Dharamshala that disciplinary proceedings are pending against the applicant is without logic. By attaching the applicant at Dharamshala while the applicant is facing disciplinary proceedings at Chandigarh, the Department will have to incur expenditure of TA/ DA in this regard when the applicant is required to attend hearings in Chandigarh and will also have to allow daily allowance to the applicant for the period that he is attached at Dharamshala. This appears to be unnecessary expenditure. If the presence of the applicant in the Regional Centre is not conducive to the smooth working of this centre, it is for the competent authority to take a decision regarding the posting of the applicant at an appropriate place or to initiate disciplinary action

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against the applicant for his acts that result in the other staff of the Regional Centre not being able to work properly if the applicant is also assigned to work in that office.

10. Since the applicant has also alleged that respondents no.2, 3
and 4 are biased against the applicant, the ~~DG, SAI~~ ^{Director (Personnel & Coaching)} may take a holistic view in the matter and issue appropriate orders regarding the deployment of the applicant. Such consideration may be effected within a period of one month from the date of receipt of a certified copy of this order. Also, the disciplinary proceedings against the applicant may be expedited so that matter reaches closure and the need for keeping the applicant away from the Regional Centre does not arise on this account. OA is disposed of with these observations.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 4.12.2014

SV:

(X) Corrected & modified in view of order
dt. 16.2.2015 passed by the Bench in
MA 060/00163/2015.

*new case
18/2/15
Deputy Registrar*