

RA No.
CP No.

6/96 OA No. 81/96

APPLICANT(S)

Mr L.C. Mannan

RESPONDENT(S)

Union or Order & on

Appear in person Advocate for the applicant.

Mr. S. Ali, Sr. C.G.S.C. Advocate for the Respondents.

Office Notes

Court's Orders

This RA is filed by
The applicant who appears
in person against the
judgment & order d. 30.5.96
passed by this Tribunal
on OA No. 81/96 praying
to review the decision.

25.6.96

Mr L.C. Mannan in person.
Leave note of Mr S. Ali, Sr. & G.S.C
for today.

List for order on 27.6.96 in
presence of Mr Ali.

Member

The application is
within time and in
order.

pg

27.6.96

list

Submitted for placing
before the Hon'ble Bench.

27.6.96

The applicant is present in
person. Mr S. Ali, learned Sr. C.G.S.C.,
for the respondents.

List for orders on 11.7.96.

Member

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

nkm

11-7-96

Applicant in person is
present. Mr. S. Ali, Sr. C.G.S.C
is present for the respondents.

List for making order
on 12-8-96 together with O.A.
No. 111/96.

lm

Member

12.8.96

The applicant, L.C. Manna, is present in person. Mr S. Ali, learned Sr. C.G.S.C., for the respondents.

List on 20.8.96 for orders.

bs
Member

nkm

m
12/8

20-8-96

Adjourned for order on 30-8-96.

bs
Member

m
20/8

30.8.96

The applicant L.C.Manna present in person. Mr S.Ali, Sr.C.G.S.C for the respondents.

Order against which review application is filed was passed by Division Bench. This Review Application therefore to be placed before Division Bench. Mr Ali submits that no notice have been given to the respondents.

Issue notice to the respondents for objection if any.

List for order on 24.9.96 before Division Bench.

bs
Member

23.8.96

Requisite copy of service not yet filed by the applicant.

pg

m
30/8

24.9.96

None for the petitioner. Mr S.Ali, Sr.C.G.S.C for the opposite parties.

Requisites copy for service not yet submitted.

List for order on 17.10.96.

bs
Member

Ben

16.10.96

Requisite copy of service not yet filed by the applicant.

pg

m
25/9

put up on 2/13
Issue notice to the respondents.

m
30/8

R.A. 6/96 (O.A.81/96)

17.10.96

None for the petitioner. Mr S. Ali, Sr.C.G.S.C for the opposite party.

List for order on 29.11.96.

28.11.96

Service of Copy
not yet filed
by the applicant.

pg
M/
17/10

29-11-96

To be placed for order before next available Division Bench.

ba
Member

Bm

List when division
bench is available.

lm
M/
29/11

ba
Member

M/
29/11

1.5.97

The applicant ~~in person~~ is not present. Mr S.Ali, learned Sr.C.G.S.C is present on behalf of the respondents.

Let this case be listed for hearing on 12.6.97.

ba
Member

JB
Vice-Chairman

pg
F
2/5

12.6.97

The bench is not available today. List the matter for fixing ^a date of hearing on 7.7.97

By order

A
12/6/97

7.7.97

On the prayer of Mr S. Ali, learned Sr. C.G.S.C. let this case be listed tomorrow, 8.7.97.

ba
Member

JB
Vice-Chairman

nkm

8.7.97

The applicant is not present when the case is called. There is also no representation on behalf of the applicant. Mr S. Ali, learned Sr. C.G.S.C., is present on behalf of the respondents. The case is dismissed for default.

17.7.97

Copy of the order has been sent to the S/sec. for issuing the same to the Applicant on L/Adv. for Reply.

vide ~~order~~ dated

No. 2502-2503

dated 24.7.97

Member

Vice-Chairman

nkcm

5/9/97

for si... of... is not...
present... learned...
present on behalf of the respondent...
The case is dismissed for default.

The order is not available for perusal...
in case of hearing on 7.7.97

BY ORDER

240
24 JUN 1995
b/
Gauhati Bench
2000

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUHATI BENCH

Review Application No. 6 96

Original Application No. 81/96

In the matter of:-

An application u/s 22 (3) (f) of the Administrative Tribunal Act, 1985 for review of judgement & order dated 30.5.96 passed in O.A. No. 81/96 by the Hon'ble Tribunal.

-And-

In them matter of:-

Sri L.C. Manna,
Wireless Supervisor in the Inter State
Police Wireless Station, Dispur, APRO,
Building, Dispur, Gauhati-6.

.....Original
Applicant/
Petitioner

-Vs-

1) Union of India represented by
Ministry of Home Affairs, Govt. of
India, New Delhi.

2) The Director, Police Communication
(Police Wireless) Director of Co-ordination
B-9, CGO Complex Lodhi Road, New Delhi-3

....2/-

Received 6/9/96

Sd/-
Sr. 2980
24/6/96

[Handwritten signature]

4
Filed by in person
L.C. Manna

3) Joint Director, Directorate of Coordination Police Wireless Block-9, CGO Complex, Lodhi Road, New Delhi-3.

4) Deputy Direction, (Administrattion) Directorate of Coordination (Police Wireless, Block-9, CGO Complex, Lodhi Road, New Delhi-3.

5) The Assistant Direcfor (Communication), Directorate of Coordination, Police Wireless Block-9, CGO Complex, Lodhi Road, New Delhi-3.

6) Extra Assistant Director/Zonal Officer cum Station Incharge, Inter State Police Wireless Station, Dispur, APRO Building Gauhati-6.

.....Respondents

The humble petition on behalf of the petitioner above named
MOSTR ESPECTFULLY SHEWETH:-

FACTS OF THE CASE

1) That the petitioner after completing the training joined in the service under the Respondents at the Head Quarter New Delhi on 10.10.76.

2) That after completing the third month at the Head Quarter New Delhi the petitioner was transferred to Calcutta on 22.12.76 ~~xxx~~. The petitioner after completing approximately 2 years and 4 months at Calcutta was again transferred to Agartala on 24.4.79 (1979).

.....3/-

3. That after a stay of about 3 years the petitioner was transferred to Bhopal on 30.7.82 and he stayed about 2 years 2 months (including 6 months training at Delhi in the strength of Bhopal Staff). After completing the stay of 2 years 2 months i.e, on 3rd March, 1984 the petitioner was again transferred to Patna and he stayed at Patna nearly 4 1/2 years. After completing 4 1/2 years at Patna the petitioner was again transferred to Gangtok which is a non popular station. Pursuant to the transfer order passed on 15.4.89 transferring the Petitioner to Gangtok the petitioner stayed about 2 years at Gangtok.

4. That again after the aforesaid 2 years stay at Gangtok which is a non popular station the petitioner was transferred to Dispur on 14.12.92 and till date the petitioner ~~was~~ is working at Dispur as an Wireless Supervisor in the Inter State Police Wireless Station, Dispur.


5. That the petitioner by now has completed more than 3 years in the North Eastern Region. The petitioner pursuant to a circular dated 5.12.95 (Annexure-2) of the O.A.) made a representation stating/requesting the respondent No.2 stating categorically Calcutta as his choice place of posting. In the said representation the petitioner has also stated the grounds for his transfer to Calcutta. The petitioner in the said representation (Annexure-3 of the O.A.) has given the medical grounds as he was suffering from some Psychological diseases for which he on an often has to visit Calcutta for his regular Check up. and for which he has to spend a lot of money.

Q. Am.

6. That on not getting any favourable result from the respondent No.2, the petitioner again made a representation to the respondent No.3 on 27.3.96 (Annexure-4 to the OA.) stating inter- alia the grounds for sympathetic^{ti} consideration by the respondents . In the said petition the applicant has also stated his willingness to be posted at Calcutta amongst all the grounds.

7. That to the utmost shock and dismay to the petitioner on 8.5.96 the petitioner was served with an transfer order transferring him to Patna .The petitioner immediately after getting the transfer order dt. 8.5.96 made a representation to the respondent No.2 (Advance copy) (Annexure-5 to the O.A.) and on the same date he made another representation to the respondent No.2 through proper channel (Annexure-6 to the O.A.). but the respondents did not give him any reply to him.

8. That being aggrieved by the action of the respondents the petitioner filed the said original application vide O.A. No. 81/96 before this Hon'ble Tribunal. The Hon'ble Tribunal in the very first day of hearing i.e, 30.5.96 passed an order making an observation that the application is not entertainable. The Hon'ble Tribunal did not admit the petition and as stated above disposed of the petition in the first day of hearing without issuing any notice for show cause to the respondents. In the said petition the petitioner had made some allegations against the respondents and in absence of any show cause from the respondents the facts leading to the case ~~does~~ did not come into light before the Hon'ble Tribunal which is an



error apparent on the face of the record.

A copy of the said order dated
30.5.96 is annexed herewith &
marked as Annexure-A.

Hence this review petition. on amongst other the
followings:-

GROUNDS

1. For that issue involved in the case being one of transfer and accordingly the petitioner had made out a prima facie case of malafide and colourable exercise of power by the respondents. The said case was taken up for hearing by this Hon'ble Tribunal on 30.5.96 and in the very first day the said case was disposed of with a direction that the petition is not entertainable without hearing the respondent's side on record. The Hon'ble Tribunal could not have disposed of the matter as the matter involved colourable exercise of power as well as malafide action of the respondents without hearing the respondents side on their show cause. This is an error apparent on the face of the record.

2. For that the Hon'ble Tribunal could have issued notice to the respondents to show cause as to why the reliefs sought for by the petitioner should not be granted. But in the instant case where as the petitioner prima facie made out a ~~malafide~~ case of malafide and colourable exercise of power by the respondents, the Hon'ble Tribunal without considering the facts and circumstances stated by the petitioner disposed of the application as not entertainable. This is an error apparent to the face of the record.

Q. am.

3. For that Annexure-2 of the OA is a guideline of the said department showing the provision for making application for choice place of posting for favourable consideration has been made void by this Hon'ble Tribunal while passing the order. This Hon'ble Tribunal could have issued the notices to the respondents directing them to consider the case of the applicant with a further direction to convey it to the applicant pending disposal of the OA. The Hon'ble Tribunal while disposing of the OA has made it known to respondents that the application is not maintainable and the same has given the handle to the respondents to say in negative with a mechanical order - so called administrative reason. This is an error apparent on the face of the records.

4. For that the Hon'ble Tribunal ought to have issued notice to the respondents alongwith the records of the case to examine the matter relating to transfer of his juniors to his choice place of posting where as the applicant has made a categorical statement of not to relieve Shri N.S. Mandal who was given posting at Calcutta. This is an error apparent on the face of the records.

5. For that the Hon'ble Tribunal failed to consider the circular regarding the tenure posting at N.E. Region in the instant case. Although the Hon'ble Tribunal stayed this order but the Hon'ble Tribunal has made the said circular of tenure posting at NE.E. Region null and void by saying the same as to be not maintainable which is an error apparent on the face of the record.


6. For that the Hon'ble Tribunal ought to have held that the impugned transfer order is prima facie illegal and void and violative of principles of natural justice and as such liable to be set aside and quashed on review.

7. For that the Hon'ble Tribunal ought to have held that the respondents have wrongly transferred the applicant in light of the circular of tenure posting at NE. Region which is ex-facie discriminatroy arbitrary and illegal.

8. For that the Hon'ble Tribunal ought to have held that the act of the respondents are not only illegal but also violation of their order statutory provision by transferring a much more junior person to Calcutta without considering the fact that already the said junior had enjoyed the place of posting at Calcutta for more than 6 years at a stretch.

9. For that the Hon'ble Tribunal ought to have taken into consideration of the petitioner case on his own medical ground and the Hon'ble Tribunal on this score alone ought to have allowed this petition.

10. For that the Hon'ble Tribunal ought to have taken into consideration of the facts that the ~~apparent~~ applicant in compling the said impugned order would going to loose his chances for choice / optional place of posting.

 11. For that in view of the matter, the impugned judgement and order dated 30.5.96 is not maitnainable and liable to be set aside on review.

In the premises aforesaid it is most respectfully prayed that the instant review application be admitted, records be called for and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to set aside the impugned judgement and order dated 30.5.96 passed by the Hon'ble Tribunal in OA No. 81/96 and/or be pleased to pass such order/s as this Hon'ble Tribunal may deemed fit and proper.

AND

Pending disposal of the review application be pleased to stay the operation of the impugned order dated 30.5.96 passed in OA No. 81/96 alongwith ~~the~~ an interim order directing the respondents not to relieve the applicants from his present place of posting.

And for this act the petitioner as in duty bound shall ever pray.

.....Affidavit



AFFIDAVIT

I Shri L.C. Mannan at present working as Wireless Supervisor in the Inter state Police Wireless Station Dispur APRO Building Gauhati-6 do hereby solemnly affirm and state as follows:-

- 1) That I am the petitioner in the instant review application and as such I am well conversant with the facts and circumstances of the case and also competent to swear this affidavit.
- 2) That the statements made in this affidavit and those made in the instant accompanying petition in para
..... are true to my knowledge and those made in para (Grounds) are true to my legal advice.

And I sign this affidavit on this the
18th Day of June, 1996.

Identified by me

Shishir Kumar Sarker

Advocate

L. C. Mannan
Depoent

Solemnly affirm and state
by the deponent who is identified by Shri S. Sharma, Advocate.



[Signature]
Magistrate

Special Judicial Magistrate,
ASSAM. GURANAYI

....

10- 14

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

D.A.No.81/96

Sri L.C.Ranna . . Applicant.

vs.

U.O.I.tors . . Respondents.

P R E S E N T

THE HON'BLE SRI G.L.SANGLYINE, MEMBER (ADMIN)

THE HON'BLE SRI D.C.VERMA, MEMBER (JUDL)

For the Applicant. In Person.

For the Respondents. Mr. S. Ali, Sr. C.G.S.C.

30.5.96

Later on the applicant appears in person and requests for hearing him for admission. Learned Sr.C.G.S.C Mr S.Ali has no objection. The prayer of the applicant to be heard for admission is allowed and the above order stands cancelled.

Heard the applicant for admission. The application is stated to be not against any particular order but the relief sought is for treating the transfer from Dispur to Patna as cancelled. Therefore, in fact, the applicant is challenging the transfer order No.A.15014/1/96-Admn.II dated 8.5.96 (Annexure-I). The claim of the applicant in this application is that he should be

contd...



Ali
for
Ali

30.5.96

posted at Calcutta as opted by him in his representation dated 11.12.95 as he has served in the North Eastern Region for a considerable long time. According to the scheme of incentives provided to the Central Govt. employees who are posted from places outside N.E. Region to the North Eastern Region an employee cannot claim a posting in any place of his choice as a matter of right but he can only be considered for any of the places of his choice and it is upto the competent authorities concerned to accommodate an employee to one of his places of choice if found possible. As such, the applicant has got no legal right to claim for his posting in Calcutta. Therefore we consider that there is no case for scrutiny and decision in this application. The application is therefore not entertainable and it is disposed of.

However, the applicant has submitted a number of representations to the respondents, particularly representation dated 17.5.96, Annexure-8 to this application. The respondents are directed to dispose of the representations expeditiously preferably within a period of 15 days from the date of receipt of copy of this order. Further, the respondents are directed not to relieve the applicant pursuant to the order dated 8.5.96 till disposal of his representations as annexed to this O.A.

Copy of the order may be furnished to both the parties.

Sd/MEMBER(A)
Sd. MEMBER(Jud)



Certified to be true Copy
प्रमाणित प्रतिलिपि

COURT OFFICER

न्यायालय अधिकारी
Central Administrative Tribunal
वेस्टबंग प्रमोशन विप. अधिवरण
Guwahati Bench, Guwahati-5
गुवाहाटी न्यायापीठ, गुवाहाटी-5

The Deputy Registrar
Central Administrative Tribunal
Gauhati Bench,
Gauhati - 5

Honourable Sir,

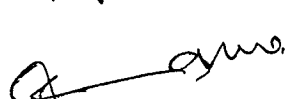
Most humbly I beg
to submit that I want to appear
in person with reference to
Review application no. 6 of 1996
(original application no. 81/96)

I shall remain grateful
to you for this favourable act of
kindness.

With kind regards,

Thanking you Sir,

Gauhati,
24-6-96

Yours faithfully

L.C. MANNA 24-6-96