

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.135/2017

Order Reserved on:12.01.2017
Order pronounced on 17.01.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri V. N. Gaur, Member (A)

Sonia [Aged about 30 years (Group C)]
W/o Sh. Akhilesh Singh
R/o H.No.951, Arun Vihar Apptts.
Sec-29, Noida.

(By Advocate: Sh. U. Srivastava)

Versus

1. The Employees State Insurance Corporation
Through the Director General, ESIC Hqrs.
Panchdeep Bhawan, CIG Marg, New Delhi.
 2. Director General, D(M)D
ESIC Scheme Dispensary Complex
Tilak Vihar, New Delhi.
 3. Sh. Mukesh Kumar,
Dy. Director (Admn.)
ESIC, Directorate (Medical) Noida
ESI Modal Hospital, Sec-24, Noida (UP).
 4. Dr. Meena Doda Head of Department (OT)
ESI Modal Hospital, Sec-24, Noida (UP).
 5. Harish Chand, OT Tech., ESI Modal Hospital
Sec-24, Noida (UP).
- .. Respondents

ORDER

By V. Ajay Kumar, Member (J):

Heard the learned counsel for the applicant.

2. The applicant, an Operation Theater Assistant (in short, OT Assistant) in the ESI Hospital, Noida, earlier filed OA No.3594/2016, questioning the impugned transfer Order dated 06.10.2016 in transferring her to ESI Hospital, Basaidarapur, and the said OA was disposed of on 21.10.2016 by directing the Respondent No.1, to sympathetically consider the representation of the applicant and to pass a speaking order in accordance with law. The respondents were also directed to maintain the *status quo* with regard to the service of the applicant, in the meanwhile.

3. In pursuance of the aforesaid orders, the 1st Respondent, vide Annexure A2, dated 19.12.2016 passed a Speaking Order whereunder he rejected the request of the applicant to cancel the transfer order. The learned counsel submitted that the applicant joined at ESI Hospital, Basaidarapur, however, without prejudice to her rights.

4. It is submitted that the impugned transfer order is liable to be set aside, as the same was issued not due to any administrative exigency but only as a measure of punishment.

5. It is further submitted that on 27.05.2016, the applicant was served with a Memorandum wherein it was alleged that the applicant was creating obstruction in the function of the OT and was also

misbehaving with Shri Harish Chander also an OT Technician and was senior to the applicant. It is stated that the applicant denied the said allegation and also explained the actual position, and the harassment meted out by the applicant in the hands of the said Shri Harish Chander, vide her letter dated 31.05.2016. The applicant also requested to conduct an inquiry into the said matter, but the respondents have not conducted any inquiry till date, and on the other hand, issued the impugned transfer order. The applicant also requested to furnish copies of the complaints said to have been made against the applicant vide letter dated 22.09.2016 but the respondents not even furnished the same to her.

6. Transfer of a public servant is an incidence of service and the law on the said subject is well settled. It is not in dispute that the applicant had been working at Noida since her appointment and that the impugned transfer order was not an isolated transfer in respect of the applicant alone and that the applicant was transferred along with so many others vide the said order. It is also not in dispute that the impugned transfer order does not cast any stigma on the applicant, as the same was only a simple transfer order.

7. So far as the submissions with regard to the complaints and counter complaints and non furnishing of certain documents requested by the applicant are concerned, the same are at the fact finding stage and that no proceedings invoking any of the rules were issued, till date. If the applicant requires any information or copies of any

documents, nothing prevents her from obtaining the same, in accordance with law, if permissible.

8. In the circumstances, we do not find any merit in the OA and, accordingly, the same is dismissed. No costs.

(V. N. Gaur)
Member (A)

(V. Ajay Kumar)
Member (J)

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