

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

OA No.1310/2017

Reserved on:21.04.2017

Pronounced on:25.04.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)**

**Hon'ble Mr. P.K. Basu, Member (A)**

Shri Gautam Singh (Aged about 53 years)

S/o Late Shri Itwari Lala

R/o 146, Unity Apartment,

Pocket 23, Sector 24, Rohini,

Delhi-110085.

Working as Assistant Engineer

.....Applicant

(By Advocate: Shri T.D. Yadav)

Versus

Union of India through

1. The Secretary  
Ministry of Defence,  
South Block,  
New Delhi.
2. The Director General Quality Assurance (DGQA)  
Room No.308, D-1 Wing,  
Sena Bhawan, New Delhi-11.
3. Additional Director General Quality Assurance (V)  
[ADGQA(V)]  
Room No.86, G-Block,  
New Delhi-11.

... Respondents

**ORDER**

**Hon'ble Mr. P.K. Basu, Member (A)**

The applicant is an Assistant Engineer working in the Directorate General of Quality Assurance (DGQA) under the Ministry of Defence.

2. Vide letter dated 24.03.2017, DGQS issued Rotational Transfer Posting (RTP) order for the year 2017. A Total of 106 officials were transferred including the applicant who has been transferred from SQAE (V), Delhi to CQA (HV), Avadi (Sl. No.52 of the list). The applicant made a representation against this transfer order dated 31.03.2017 seeking exemption from transfer under Rotational Transfer on the following grounds:-

“(i) I am a Treasurer of All India DGQA Engineers Association since November 2016 (as intimated earlier by Association). As per MoD Note No.13(4)60/5701/D(APPTS) dated 12.11.1950, five Office Bearers i.e. President, Vice President, Secretary, Joint Secretary and Treasurer will be protected from transfer. However, after completion of my tenure of Treasurer I may be posted to my choice stations i.e. **VQA (W)/Stdn Cell, Kanpur and CQA (OFV), Jabalpur** as per my seniority (A copy of the MoD letter is enclosed herewith).

(ii) My son aged 23 years is suffering from severe problem of bone joints. He is diagnosed HLA B27 positive and under treatment.

(iii) My younger son is studying in class XII and he has to take admission in any Engineering College for which I have to withdraw money from my GPF. Hence I may please be transferred to HQ DQAV after June, 2017”.

3. The respondents vide letter dated 12.04.2017 communicated that the applicant's request has not been agreed to.

4. Being aggrieved by the above letter, the applicant has filed this OA seeking the following reliefs:-

- “(i) To set aside and quash the impugned posting/transfer order dated 24.03.2017 to the extent of the pertaining to the applicant’s name is shown at Sl.No.52 as per Appendix ‘A’ as (Annexure A-1).
- (ii) To set aside and quash the impugned order dated 12.04.2017 (Annexure A-1).
- (iii) To direct the respondents to consider applicant posting/transfer as per his choice station i.e. VQA [W/Std. Cell, Kanpur or CQA (OFV) Jabalpur] after completion of tenure as treasurer i.e. after November, 2018 with all consequential benefits.
- (iv) To pass any other order(s) as deem fit and proper in the facts and circumstances of the case.
- (v) To award cost.”

5. The applicant relies on the following grounds for allowing his prayer:

- (i) Vide Office Memorandum dated 18.11.1960 (Annexure A-2), it had been clarified that the number of important office bearers enjoying protection from transfer under the above-mentioned orders will be restricted to a maximum of five viz. one President, one Vice President, one Treasurer and one Secretary (which includes General Secretary and Joint Secretary, and for this purpose each recognized Union/Association, may be asked to indicate the names of their five office bearers every year whom, they consider as important office bearers and for whom protection from transfer is required during that year so that only those office bearers (which would not exceed five in the case of each recognized Union/Association) may be given protection from transfer as and when such occasion arises. In the case of the

Association of an all India character, however, each case will be examined on merits and separate orders issued to make the provisions of the above-mentioned OM applicable to them. It is, therefore, argued that since the applicant is the Treasurer of all India DGQA Engineers Association since November, 2016, in accordance with the OM, he cannot be disturbed from Delhi;

- (ii) Circular dated 24.11.2016 issued by the Department of Defence Production with respect to posting/transfer policy in respect of Group 'B' (Gazetted and non-Gazetted) officials of DGQA provides the following with regard to transfer under RTP which has not been followed:

“9. **Preference for posting**

(a) **On transfer under RTP** The cut off date for calculating the length of tenure at a station will 1<sup>st</sup> of the year in which rotational transfer is carried out. Accordingly, a list of officials completing the prescribed tenure under RTP by the crucial date and thereby due for transfer will be put on the DGQA website by the Head Quarters in Oct-Nov of the year along with station-wise detail of vacancies. The concerned officials will require to submit preferences for their posting (minimum three station choices) through Head of their Field Estt./Unit within a period of one month. The list of officials due for posting/transfer under RTP alongwith the preferences from concerned officials, will be considered by the Committee. The requests for choice postings by the officials posted at Hard Stations may be given preference and efforts will be made to accommodate them accordingly.

(b) In case more than one official prefer same station for posting and adequate vacancies are not available to

accommodate all of them, the official coming from Hard Station or retiring within a period of two years, if any, may be given preference and thereafter the official who has to serve for lesser no. of years at the station where the posting is to made, will be considered.

(c) For posting to a Hard Station, officials opting for that station, if any, will be considered first. If adequate number of officials opting for posting to hard station does not become available, posting to hard station will be considered by the Committee amongst the other available officials.

#### 10. **Exemptions from transfer under RTP**

(a) Officials have 02 years or less service for superannuation will be exempted from rotational transfer.

(b) Officials likely to be promoted within 01 year can be temporarily exempted from the RTP, for being transferred alongwith promotion, if they have completed the prescribed tenure at the existing station. Similarly, personnel may be stationed in anticipation of promotion.

(c) Exemption from RTP to an official with disabilities or who has differently abled dependents shall also be considered in terms of instructions/guidelines issued by the Government of India on the subject from time to time.

(d) Request for an official for retention at a station maximum by 01 year may be considered on grounds of education of his/her children once in entire service career”.

It is argued that these provisions have not been followed; and

- (iii) The all India DGQA Engineers Association vide its letter dated 24.11/06.12.2016 wrote to the respondents pointing out that the applicant is the Treasurer of their Association and as per Government of India orders, Chairman/President, General Secretary and Treasurer of the recognized Association should

not be transferred from Head Quarters and should be posted at the Head Quarters of the Association. It was prayed in this letter that the applicant should be exempted from transfer under RTP and be retained at New Delhi Station.

6. We have heard the learned counsel for the applicant and gone through the pleadings available on record.

7. The applicant was appointed in DGQS on 11.09.1992. On being asked by us, the learned counsel for the applicant stated that since his date of appointment he has been posted at Delhi, which means that he has spent almost 25 years in Delhi and has never been moved out. In accordance with paragraph 9 of Circular dated 24.11.2016 which has been quoted above, option for rotational transfer 2017 was sought vide respondents letter dated 28.02.2017 (Annexure A-7). The applicant's case is that since he was the office bearer and the Association had already written on 24.11/06.12.2016 for his exemption, the applicant had not given his choice and has been posted at Avadi. After the transfer order was issued, in his representation dated 31.03.2017, he has stated that after completion of his tenure of Treasurer of the Association, he may be posted to a station of his choice, i.e. VQA (W)/StdN Cell, Kanpur and CQA(OFF), Jabalpur. After serving about 25 years at same station at Delhi, the applicant cannot take the plea that he cannot be posted outside Delhi. When he joined service, he was well aware that he would be required to serve anywhere in India.

8. Annexure A-6 makes it clear that the applicant was elected/appointed as the Treasurer of the Association with effect from 01.11.2016 and promptly thereafter, on 24.11/06.12.2016, the Association wrote to the authorities to exempt him from transfer as he is an office bearer, perhaps anticipating that in the rotational transfer of 2017, the applicant may get transferred.

9. The Hon'ble Supreme Court in its judgment in **S.C. Saxena Vs. Union of India & Ors., 2006 SCC (L&S) 1890** has settled the law in regard to transfer as follows:

“6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.”

10. In view of the law settled by the Hon'ble Supreme Court as well as the facts of this case, we find absolutely no merit in the applicant's plea and this OA is, therefore, dismissed in limine.

11. Of late, we have seen responsible Government servants rushing to the Tribunal against legitimate transfers after decades of posting at one place on some pretext or the other. Needless to say that in case the Tribunal starts interfering in such routine administrative functions and stay or cancel such transfers, it would create serious problem for the administration to deliver to the people of India. It is a pity that a well

educated Government servant such as the applicant, knowingly entering into service with all India liability, after being transferred for the first time in 25 years, refuses to obey the order by creation of some technical ground, attempted to stall such transfer, wasting the time of this Court and, therefore, money from the public exchequer. This is deplorable conduct on the part of the applicant. We impose a cost of Rs.25,000 (Rupees Twenty Five Thousand) on the applicant and dismiss the OA. The cost shall be paid to the respondents within a period of one month.

**( P.K. Basu )**  
**Member (A)**

**( V. Ajay Kumar )**  
**Member (J)**

Rakesh