

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1512/2017

Order Reserved on: 03.05.2017

Pronounced on: 12.05.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr. D.S. Shankar,
S/o Shri Shivalingappa,
Aged about 46 years,
Assistant Professor (Group-A),
CIET, NCERT, R/o IV/16, NCERT,
Staff Quarters, Nasirpur,
Dwarka, Sector-1-A,
New Delhi-110046.

- Applicant

(By Advocate Shri J.A. Chaudhary)

-Versus-

1. Director,
National Council of Educational,
Research and Training (NCERT),
Sri Aurobindo Marg,
New Delhi-110016.
2. Joint Director,
Central Institute of Education,
Technology (CIET) NCERT,
Sri Aurobindo Marg,
New Delhi-110016.
3. Deputy Secretary/Secretary,
(NCERT),
Sri Aurobindo Marg,
New Delhi-110016.

- Respondents

O R D E R**Mr. K.N. Shrivastava, Member (A):**

The applicant, through the medium of this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, has prayed for the following main relief:

“ii) quash and set aside the impugned transfer order dated 25.04.2017 issued by the respondent No.3.”

2. The brief facts of this case are as under:

2.1 On 27.07.2007 the applicant was appointed as a Lecturer (Zoology) at Regional Institute of Education (RIE) of National Council of Educational Research & Training (NCERT) at Ajmer. He was confirmed on the said post after completing the probation period of two years successfully. The post of Lecturer came to be re-designated as Assistant Professor following the 06th Central Pay Commission recommendations.

2.2 In February, 2010 the applicant was transferred to RIE, NCERT, Bhopal and from there on 25.04.2013 to Central Institute of Technology (CIET), NCERT, New Delhi. Vide the impugned Annexure A-1 order dated 25.04.2017, he has been transferred by NCERT to North East Regional Institute of Education (NERIE), Shillong. The grievance of the applicant is that he has been subjected to frequent transfers in violation of NCERT’s Transfer Policy called “The Transfer Policy of Academic and Non-Academic

Staff of NCERT, 2012" (Annexure A-7) dated 09.01.2013. It is contended that in terms of clause-3 of the Transfer Policy, the normal tenure of all Academic and Non-Academic officers belonging to Group 'A' and Group 'B' at a station is at least five years. In case of transfer to NERIE, however, the mandatory period of posting is three years. It is stated that the respondents have not allowed the applicant to have his prescribed tenure of five years at Delhi and that his transfer to NERIE, Shillong vide impugned Annexure A-1 order is against the Transfer Policy. The applicant has further stated that he is Assistant Professor (Zoology) and that there is no sanctioned post of Assistant Professor (Zoology) at NERIE, Shillong against which he could have been posted. He has alleged that the transfer has been effected with a *malafide* intention to harass and humiliate the applicant.

3. Brief argument of Shri J.A. Chaudhary, learned counsel for the applicant was heard on 03.05.2017.

4. We have perused the NCERT Transfer Policy. Clause-7 of the Transfer Policy/Guidelines reads as under:

7. POWER OF RELAXATION OF GUIDELINES

Notwithstanding anything contained in the Guidelines, the Director shall be the sole competent authority to transfer any employee to any place in relaxation of any or all of the provisions above."

5. The impugned order has been issued with the approval of the Competent Authority, albeit signed by Deputy Secretary, NCERT.

Clause-7 of the Transfer Policy empowers the Director, NCERT to effect transfer in relaxation of the guidelines. As such, Annexure A-1 transfer order cannot be faulted upon.

6. In the matter of transfer of Government servants, the Hon'ble Supreme Court in the case **S.C. Saxena v. Union of India**, [2006 SCC (L&S) 1890] at para-6, has held as under:

“....a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to the 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....”

7. In view of the foregoing paras, we do not find any merit in this OA and dismiss it at the admission stage itself. The applicant must obey the transfer order. However, he is given liberty to make a detailed representation to the Competent Authority for re-consideration of his transfer after joining at the transferred place in terms of the ratio of law laid down by the Hon'ble Supreme Court in **S.C. Saxena** (supra).

8. No order as to costs.

(K.N. Shrivastava)
Member (A)

(V. Ajay Kumar)
Member (J)

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