

**Central Administrative Tribunal
Principal Bench**

MA No.1587/2018
OA No.4563/2017

New Delhi this the 12th day of April, 2018.

***HON'BLE MR. JUSTICE DINESH GUPTA, CHAIRMAN
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)***

L.R. Vishwanath

-Applicant

(By Advocate Shri M.K. Bhardwaj)

-Versus-

Union of India & Others

-Respondents

(By Advocate Shri Rajeev Kumar)

O R D E R (ORAL)

Mr. K.N. Shrivastava, Member (A):

MA No.1587/2018

Through the medium of this Miscellaneous Application (MA) the applicant has prayed for the following relief:

“In view of the facts and circumstances mentioned above it is most humbly prayed that this Hon’ble Tribunal may be pleased to stay the office order dated 06.04.2018 till the disposal of MA No.1334/2018 in OA No.4563/2017.”

2. The Tribunal while considering OA No.4563/2017 filed by the applicant, impugning his transfer vide order No.139/2017-HS dated 24.11.2017 from New Delhi to Vijaywada had issued the following interim direction:

“4. Keeping in view this fact, we dispose of the O.A. with the following directions:-

- i) The applicant shall be allowed to continue on the present post till 07.04.2018. He would join in the second week of April, 2018 at PIB, Vijayawada where he has been transferred vide order dated 24.11.2017.
- ii) The applicant shall file an undertaking before this Tribunal within one week from today to comply with the aforesaid directions, failing which he will be liable for contempt. Apart from this, the respondents would also be at liberty to initiate disciplinary proceedings against him.
- iii) The respondents would allow the applicant to work at the present place of posting, with all service benefits, till then.”

3. In obedience of the aforementioned order of the Tribunal, the applicant was allowed by the respondents to continue at Delhi and the applicant on his part has given an undertaking, as directed by the Tribunal, that he would join at Vijayawada in the 2nd week of April, 2018. The respondents have issued office order dated 06.04.2018, which reads as under:

“File No.PF/1545/S.III

dated 6th April, 2018

OFFICE ORDER No.48/2018-S-III

In compliance of order dated 21.12.2017 passed by Hon'ble CAT, Principal Bench, New Delhi in O.A. no.4563/2017 filed by L.R. Vishwanath Vs. U.O.I. & Ors and in pursuance of Ministry of Information & Broadcasting I.D. Note no.A-56011/10/2016-IIS dated 05.04.2018, Shri L.R. Vishwanath, ADG (P) (DD Kashir), DG:DD stands relieved w.e.f. 06.04.2018 (AN), with direction to report to PIB Vijayawada.

Sd/-
Rajeev Sinha
(Dy. Director General)”

4. The applicant has prayed for stay of the office order dated 06.04.2018 till the disposal of MA No.1334/2018 in OA

No.4563/2017. This prayer of the applicant cannot be granted. In the matter of transfer, in the normal course, we would not have interfered. However, when the applicant's OA No.4563/2017 was taken up for consideration on 21.12.2017, the learned counsel for the applicant apprised us of some personal difficulties of the applicant due to which he was not in a position to join at Vijaywada immediately. It was stated that the applicant's daughters are studying in 10th class and his wife was unwell. When we specifically asked as to how much time should be granted to the applicant to enable him to join at Vijaywada; the learned counsel for the applicant, on instructions, stated that the applicant would be able to join at Vijaywada in the 2nd week of April, 2018. Taking into consideration the personal difficulties of the applicant then prevailing and the submissions made on his behalf by his learned counsel that he would be able to join at the transferred place in the 2nd week of April, 2018, we passed the aforementioned interim order. The applicant now wants to retract from his undertaking.

5. It is stated in this MA that the process of promotion of the applicant to the post of Director General has been initiated by the respondents and that a DPC in this regard was held on 01.03.2018 in UPSC. It is further stated that the applicant has been approved for promotion to the post of Director General and that in view of these developments, the direction of the Tribunal in regard to joining of the applicant as ADG, Vijaywada has become un-

implementable and accordingly the applicant has filed MA No.1334/2014 in which a short notice was issued by the Tribunal on 02.04.2018. It is thus prayed that the transfer order dated 06.04.2018 be stayed till the disposal of MA No.1334/2018 in OA No.4563/2017.

6. Heard the learned counsel for the parties.
7. By seeking stay of the transfer order dated 06.04.2018 through this MA, the applicant is attempting to subvert our direction contained in our order dated 21.12.2017. This act of the applicant tantamounts to breach of trust.
8. The applicant did not produce any record to show that he has been recommended for promotion to the post of Director General and all the averments made in that regard in the MA are on the basis of 'hear-say'. Needless to say that in the event of his indeed getting promotion as Director General, and according to him the post of Director General lies at New Delhi, in that case the respondents themselves will post him at New Delhi.
9. The Hon'ble Supreme Court in the case of **S.C. Saxena v. Union of India & Ors.**, [2006 SCC (L&S) 1890] at paragraph-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 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 ratio of law laid down by the Hon'ble Apex Court in **S.C. Saxena** (supra), the applicant is mandated to go and join at the transferred place and thereafter make representation to the competent authority for reconsideration of his transfer.

11. In the conspectus of the discussions in the pre-paras, this MA is dismissed being found devoid of any merit.

(K.N. Shrivastava)
Member (A)

(Justice Dinesh Gupta)
Chairman

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