

**Central Administrative Tribunal
Principal Bench**

OA No.1845/2017

New Delhi, this the 25th day of May, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Shri S. Gunahari, Age 58 years,
Regional Labour Commissioner (Central), Mumbai,
Group A Officer,
S/o Late Shri Vittal Rao Shatamraj,
R/o B-8, New Life Society, Shiv Srushti, Kurla (East),
Mumbai-400024.

...Applicant

(By Advocates: Shri V. Shekhar, Sr. Advocate and Shri Abhishek Vikram along with him)

Versus

1. Union of India, Through the Secretary,
Ministry of Labour & Employment,
Shram Shakti Bhavan, Rafi Marg,
New Delhi-110001.
2. Chief Labour Commissioner (Central),
Ministry of Labour & Employment,
Shram Shakti Bhavan, Rafi Marg,
New Delhi-110001.
3. Deputy Chief Labour Commissioner (Central),
Shram Raksha Bhawan, Shiv Shruti Marg,
Eastern Express Highway, Sion (East),
Mumbai-400022.

...Respondents

ORDER (ORAL)

Justice Permod Kohli :-

This Application is directed against the transfer order dated 21.04.2017 whereby the applicant has been transferred from his present posting as Regional Labour

Commissioner(C) Mumbai to Regional Labour Commissioner (C) Office of CLC (C), Head Quarter, New Delhi.

2. Shri V. Shekhar, learned Senior Counsel appearing for the applicant submits that the transfer order has been passed to adjust another person who is being posted in place of the applicant. His further contention is that the impugned order has been passed in violation of the transfer policy which, *inter alia*, require minimum period of two years of posting at a particular place and up to maximum of four years. He has further contended that the impugned transfer is actuated by *mala fides*.

3. We have heard the learned senior counsel for the applicant and perused the record. In so far as the violation of the transfer policy is concerned, there is no violation at all. The order of transfer itself mentions that the order of transfer is effective from 01.06.2017. Admittedly, the applicant was posted as Regional Labour Commissioner(C), Mumbai on 06.05.2015. It is seen that even though the transfer order was passed on 21.04.2017, it is made operative only w.e.f. 01.06.2017 i.e. after the expiry of period of two years. In respect to the allegation of *mala fides*, no specific allegation has been made in the

OA. In any case, no person against whom *mala fides* are alleged has been impleaded as party in the present Application. The applicant also relies upon a recommendation of his immediate superior officer i.e. Deputy Chief Labour Commissioner (Central), Mumbai. The applicant made a representation against his transfer, and his immediate superior officer vide letter dated 08.05.2017 has recommended for retention of the applicant at Mumbai Office for variety of reasons stated therein. It is alleged that the competent authority has not considered the recommendations of the Deputy Chief Commissioner(C), Mumbai or the representation of the applicant.

4. It is settled law that transfer is an exigency of service. No Government servant has right to remain on a particular post or a place. It is the prerogative of the employer to utilize the services of the employee as may be desired in public interest or in the interest of the administration. Interference in transfer matters is warranted only where the order has been passed by an incompetent person or the same is actuated by *mala fides*, or is by way of penalty, or is against any rule, regulation or enforceable transfer policy.

5. We do not find any of the situations wherein the transfer is required to be interfered. No merit. OA is dismissed.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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