

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.3418/2015

Order Reserved on: 16.10.2015
Order pronounced on 20.10.2015

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

Ajay Kumar Gupta

S/o Amar Nath Gupta

Aged about 53 years

R/o Quarter No.985, Type-IV

CPWD Quarters NH-4

Faridabad.

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Applicant

(By Advocate: Shri O.P.Gehlaut with Shri U.C.Mathpal)

Versus

1. Union of India

Through its Secretary

Department of Agriculture & Cooperation

Ministry of Agriculture

Krishi Bhawan

New Delhi.

2. The Joint Secretary-cum-

Agricultural Marketing Advisor

Room No.133

Department of Agriculture & Cooperation

Ministry of Agriculture

Krishi Bhawan

New Delhi.

3. Director (Administration)

Directorate of Marketing & Inspection

New CGO Complex, NH-4

Faridabad. Respondents

(By Advocate: Shri Rajive R.Raj)

O R D E R

Heard both sides.

2. The applicant, who is working as Senior Marketing Officer at Faridabad, filed the OA questioning the Office Order No.158/2015 dated 06.08.2015 (Annexure A1) whereunder he was transferred from Faridabad to Bhubaneswar, on various grounds.

3. However, when the matter taken up for hearing, the learned counsel for the applicant, while drawing the attention of this Tribunal to the various Clauses of the Annexure A7, transfer policy dated 23.07.2015, which emphasizes to effect the transfers, usually and as far as possible on conclusion of academic session, submits that he is not pressing the other grounds raised in the OA, as the law on the issue of transfers is well settled.

4. The learned counsel while further fairly submitting that the applicant completed the minimum tenure of service at Faridabad and that he is due for transfer to any other place and that he is ready to join at Bhubaneswar in terms of the impugned transfer order, however, prays for deferring with the said order only for a limited period, i.e., till the completion of the academic year, i.e., 30.05.2016, for the following reasons:

a) The daughter of the applicant is studying MCA Final Year (3rd Year) in the Indira Gandhi Technical University for Women, Kashmiri Gate, New Delhi. His son is also studying final year B.Tech., Gautham Budha University, Noida. The academic years of both the children will be completed by 31.05.2016.

b) If the applicant is forced to join at Bhubaneswar, the studies of his children at the fag end of their education will be severely affected.

c) The applicant is not in a position to maintain two establishments for the purpose of his children education and for him simultaneously at Faridabad and Bhubaneswar.

5. The learned counsel further submits that in the identical circumstances, the Chandigarh Bench of the Tribunal in OA No.060/00727/2015 dated 24.08.2015 directed the respondents to allow the applicant therein who was also sought to be transferred under the same impugned order to continue at Chandigarh where he was working till the completion of the academic session of his children.

6. It is also submitted that the respondents though rejected the representation of the applicant, made against his impugned transfer without mentioning any reasons on 14.08.2015 (Annexure A2), but considered similar request of one Shri Sanjay Mittal, who was also sought to be transferred under the same impugned order, and cancelled his transfer vide Office Order No.203/2015, also without giving reasons.

7. Per contra, Shri Rajive R.Raj, the learned counsel for the respondents while drawing the attention of this Tribunal to the various judicial pronouncements on the issue of transfers, submits that since the applicant has not questioned his transfer order on the grounds of competency of the authority, violation of any statutory rule, and no malafides were attributed, this Tribunal cannot interfere with the transfer order. The learned counsel further opposed the OA on the ground of territorial jurisdiction by submitting that the applicant is working at Faridabad and all the orders were passed at Faridabad and no part of cause of action arose within the territorial jurisdiction of this bench of this Tribunal.

8. In view of the settled position of law, and since the transfer orders were stated to be issued in public interest, we accept the contention of the respondents' counsel so far as interfering with the transfer order. Accordingly, we upheld the same.

9. However, admittedly, the transfer order is issued in the middle of the academic year and the transfer policy of the respondents themselves provide certain safeguards to the employees to prevent any inconvenience to them and to their children about not issuing transfer orders in the middle of the academic year.

10. A coordinate bench of this Tribunal at Chandigarh in OA No.060/00727/2015 dated 24.08.2015 considering the identical circumstances, while not interfering with the same transfer order, however, directed the respondents to defer with the transfer of the applicant therein, till the completion of the education, i.e., academic session of the children of the applicant therein. The respondents also cancelled the transfer order of another employee, though no reasons were mentioned, who was also sought to be transferred under the impugned order herein.

11. It is not the case of the respondents that this Tribunal has no jurisdiction at all to entertain the OA. The objection of the respondents is that this Bench of this Tribunal has no territorial jurisdiction and that the applicant has to approach the appropriate bench for redressal of his grievance. It is to be seen that the respondent is part of the Department of Agriculture and Cooperation under the Ministry of Agriculture, whose office is situated at New Delhi. The Annexure A7 transfer policy of the respondents, on which both sides placed reliance, itself issued from its New Delhi address, hence, part of cause of action arose within the territorial jurisdiction of this bench of this Tribunal. Hence, we reject the contention of the respondents in this regard.

12. In the peculiar circumstances of this case, and for the aforesaid reasons, the OA is disposed of with a direction to the respondents to defer with the transfer of the applicant till 31.05.2016 and to allow him to continue at Faridabad till that date by passing appropriate orders, if necessary, forthwith. The applicant may be allowed to avail the kind of leave available to his credit in respect of the period from the date of his relief till the date of rejoining of the applicant at Faridabad.

13. It is also made clear that the applicant shall not raise any objection either to join at Bhubaneswar or at any other place as per the administrative exigencies prevailing after 31.05.2016.

14. In view of the aforesaid order passed in the OA, MA No.3091/2015 is accordingly disposed of. No costs.

(V. Ajay Kumar)
Member (J)

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