

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

O.A No. 3484/2012

Reserved on : 28.03.2017

Pronounced on : 03.04.2017

**Hon'ble Mr. P. K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Sh. O. P. Seehmar
S/o. Sh. Bhale Ram,
Posted at STC, Bhiwani,
Haryana.Applicant

(By Advocate: Mr. Yogesh Mahur for Mr. L. C. Rajput)

Versus

1. Union of India through,
Through its Secretary,
Ministry of Sports,
New Delhi.
2. The Director General,
Sports Authority of India,
J. N. Stadium Complex,
(East Gate), Gali No. 10,
Lodhi Road, New Delhi.Respondents

(By Advocate: Mr. Anil Grover and Ms. Mishal Vij)

O R D E R

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

The applicant who is an Athletic Coach was transferred from State Coaching Centre (SCC) Bawana to SAI Training Centre, Bhiwani vide order dated 25.08.2010 to meet the requirement of an Athletic Coach due to retirement of Athletic Coach posted at Bhiwani.

2. The applicant did not join at Bhiwani. The applicant was directed again to join his new place of posting vide letter dated 27.09.2010 and warned that action would be initiated against him as per rules if he does not report. His salary was ordered to be stopped with immediate effect vide order dated 26.10.2010.

3. The Additional Director of Education (Sports), Government of NCT of Delhi requested Sports Authority of India to cancel the transfer order of the applicant and allow him to work at SCC Bawana. However, since SAI is the controlling Authority and the services of the applicant were placed at the disposal of GNCTD for its SCCs (which was neither on deputation nor on lien basis) the applicant was drawing his salary from SAI.

4. The applicant was thereafter relieved by SAI order dated 20.12.2010. The applicant refused to receive those orders. The applicant had also brought political influence through Minister of Housing and Poverty Alleviation and Minister of Tourism, Govt. of India, as well as Smt. Tabassum Hussain, Member of Parliament for cancellation of his transfer order.

5. The applicant finally reported on duty at STC Bhiwani on 15.03.2011 i.e., after lapse of more than six months from the date of his transfer. The salary of the applicant was released by SAI Northern Regional Centre, Sonepat with effect from March 15, 2011 and the period of absence from 20.12.2010 to 14.03.2011 was treated as dies-non for all purpose. His pay, increments, leave encashment etc., without break in service in FR 17 (A) and consequently, he was not entitled to salary, increment, leave encashment for such period.

6. The applicant had approached this Tribunal in O.A 4346/2011 seeking quashing of the show cause notice issued to him and release of salary from November, 2010 to March, 2011. The O.A was disposed of vide order dated 14.03.2012 with a direction to respondents to look into the reply of the applicant to the show cause

notice and pass a speaking order to be communicated to the applicant.

7. The respondents passed a speaking order dated 13.09.2012 giving specific reasons why his request could not be acceded to as he had (a) violated the legitimate transfer order (b) refused to receive instructions (c) brought in political influence, details of which have been narrated above.

8. This O.A has been filed with the following prayers :-

“(i) Quash/set aside the impugned Show Cause Notice No. F. No. 1271/CD/SA/2011/235 dated 06.05.2011 issued by Sh. Amar Bhardwaj, Director (Coaching & Pers.) SAI, Coaching Division; (ANNEXURE-A-1) and also the order no. 13(683)2011-Legal/334 dated 13.09.2012 (ANNEXURE-A-2) passed by the respondent no. 2.

(ii) Directing the respondents to release the salary of the applicant for the period from November 2010 to 14th March 2011 with interest thereon.

(iii) Pass any other/further relief/order in favour of the applicant which may be deemed just and proper under the circumstances of the case including taking appropriate legal action against the erring officials respondents for not complying the orders dated 14.03.2012 passed by this Hon’ble Tribunal within time given.

(iv) Award cost of the case in favour of the applicant.”

9. The applicant has claimed the above relief based on the following ground :

“The applicant had worked from November, 2010 to 14.03.2011 in SCC Bawana and therefore, that period cannot be treated as dies-non.”

10. The respondents in the reply have primarily explained in detail what has been summarised in the speaking order dated 13.09.2012. It is incumbent upon all government servants to carry out the legitimate orders of the Government. In respect of transfer order, the Hon’ble Supreme Court in **S. C. Saxena Vs. Union of India & Ors** 2006 SCC (L&S) 1890 has held 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. Apart therefrom, if the appellant really had some genuine difficulty in reporting for work at Tezpur, he could have reported for duty at Amritsar where he was so posted. We too decline to believe the story of his remaining sick. Assuming there was some sickness, we are not satisfied that it prevented him from joining duty either at Tezpur or at Amritsar. The medical certificate issued by Dr. Ram Manohar, Lohia Hospital proves this point. In the circumstances, we too are of the opinion that the appellant was guilty of the misconduct of unauthorisedly remaining absent from duty.”

11. It is clear that the applicant has disobeyed the initial transfer order transferring him to Bhiwani. Thereafter, instead of joining he tried to bring political influence through Ministers and Hon’ble Member of Parliament in order to get his transfer order cancelled. When everything failed, he joined on March 15, 2011. He was issued a show cause notice. His show cause notice reply was considered and he was even given opportunity to be heard personally on June 29, 2011. Thereafter, the order dated 13.09.2012 has been passed.

12. We see no irregularity or illegality in the order dated 13.09.2011 passed by the respondents. The applicant has played truant and must pay for it. Hence, the O.A is dismissed with no order as to costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P. K. Basu)
Member (A)

/Mbt/