

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.100/2867/2016

Wednesday, this the 24th day of August 2016

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

G.S. Negi s/o Mr. Gian Singh, aged about 56 years
Assistant Director, AICTE,
r/o Flat No.104, 2nd Floor, Savita Vihar
Delhi – 110 092

.. Applicant

(Mr. Amitesh Kumar, Advocate)

Versus

1. All India Council for Technical Education
JNU Campus, Nelson Mandela Marg,
Vasant Vihar, New Delhi through its Member Secretary
2. Asstt. Director (Admn.), All India Council
For Technical Education, JNU Campus
Nelson Mandela Marg, Vasant Vihar, New Delhi

..Respondents

O R D E R (ORAL)

The applicant has challenged the transfer order dated 14.07.2016 whereby he has been posted to AICTE-Eastern Regional Office, Camp Office, Guwahati. Learned counsel has put-forth the following arguments for cancellation of the transfer order:

- i) The applicant has all along been working in the Accounts Department and later on as Under Secretary (Finance). This work is primarily done at the Headquarters and there is no accounts work at the level of Assistant Director in the Camp Office, Guwahati.

ii) The Camp Office, Guwahati is already under the control of the Assistant Director located at Kolkata and there is no post of Assistant Director at Camp Office, Guwahati.

iii) As per paragraph 6.3 of the SIU Guidelines (page 65 of the paper book), it is stated that only one Assistant Director should be assigned to the Regional Office.

2. Learned counsel for applicant has further explained that one criminal case has been filed against the applicant under various Sections of Indian Penal Code and Prevention of Corruption Act 1988 and trial is now going on in Ahmedabad. Simultaneously the departmental proceedings are also going on at Delhi. Therefore, this transfer is deliberate attempt to put the applicant in difficulty to attend both the criminal case and the departmental proceedings.

3. The Hon'ble Supreme Court in **S.C. Saxena v. Union of India & others**, 2006 SCC (L&S) 1890 has declared that Tribunal/Court will not interfere in transfer matters and that the transferee has to first join at the transferred place and then will make an application for transfer. Relevant portion of the judgment reads thus:-

“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.”

4. The applicant is reasonably a senior officer being Assistant Director and in view of the above law settled by the Apex Court, I am not inclined to interfere in the matter. The applicant is directed to join at the new place of posting at Camp Office, Guwahati forthwith.

5. At this stage, learned counsel has raised the issue that Section 14 of the All India Council for Technical Education Act, 1987 stipulates the procedure by which the respondents can set up the Camp Office and there is no authorization under the Act to set up a Camp Office. Regarding the objection that there is no authorization to set up a Camp Office, it is clearly a separate cause of action, as this is a challenge to the power of the respondents to create the Camp Offices and nothing to do with the transfer of the applicant.

6. The O.A. being bereft of merit is dismissed in *limine*.

(P.K. Basu)
Member (A)

August 24, 2016
/sunil/