

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3206/2016

Wednesday, this the 21st day of September 2016

**Hon'ble Mr. A.K. Patnaik, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Bachiter Singh s/o Mr. Phaku Ram
Aged 58 years, Enforcement Officer (under suspension)
House No.1556-F, Adarsh Nagar
Naya Gaon, Distt. Mohali-160103

(Mr. S.K. Khanna, Advocate)

..Applicant

Versus

1. The Central Provident Fund Commissioner
EPF Organization (Under Ministry of Labour & Employment)
Bhavishya Nidhi Bhavan
14, Bhikaji Cama Place
New Delhi – 66
2. Regional Provident Fund Commissioner
EPF Organization
SCO No.4-7, Sector 17D
Chandigarh - 160017

..Respondents

O R D E R (ORAL)

Mr. A.K .Patnaik:

At the outset, Mr. S.K. Khanna, learned counsel for petitioner fairly submitted that the applicant has not impleaded Union of India as party respondent in the present O.A.

2. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 against the order dated 18.08.2016 (Annexure A/1), whereby he has been transferred to Madurai from Chandigarh. According to him, the impugned order is against the policy of the government for

posting of the officials belonging to scheduled caste and that of physically handicapped employees in their native place. The applicant while working as Enforcement Officer in the Regional Office of EPFO at Chandigarh was placed under deemed suspension vide order dated 10.12.2015 with headquarters at Chandigarh. However, respondent No.1 on the recommendation of the suspension review Committee revoked the suspension of the applicant vide order dated 18.08.2016. The respondent also issued another order dated 18.08.2016 transferring him to the Regional Office, Madurai. It is the case of the applicant that since he was placed under suspension while working at Chandigarh and remained at Headquarters during the suspension period, he reported for joining at Chandigarh on revocation but respondent No.2 did not accept the joining report on the pretext that he has been transferred to Madurai.

3. In support of his claim, the applicant has raised the following grounds:

- i) The action of respondent No.2 in not allowing the applicant to join at Chandigarh on revocation is arbitrary and without any legal basis.
- ii) The transfer of the applicant from Chandigarh to Madurai is against the transfer policy of the respondents, as he is due to retire on superannuation in July 2018 and as such has less than two years of service.
- iii) The transfer of the applicant from Chandigarh to Madurai is also against the transfer policy of the respondents, as he belongs to scheduled caste category and as per policy, the officials belonging to scheduled caste category should be accommodated near their native place.

iv) The transfer of the applicant is also against the policy and instructions of the Govt. of India vide Office Memoranda dated 15.05.1990 and 13.03.2002 whereby physically handicapped employees should be accommodated to near their native place. The applicant is physically handicapped to the extent of 55% loco motor disability and requires attendant for travelling of 55% loco motor disability.

v) The transfer of the applicant is violative of Articles 14 and 16 of the Constitution, as the respondents have discriminated him by transferring to a distant place of more than 3500 kms.

The applicant has, therefore, filed the present O.A. seeking following prayers:

“(a) pleased to set aside the order dated 18.08.2016 (A/1) for transfer of the applicant from Chandigarh to Madurai.

(b) Direct the respondents to allow the applicant to join at Chandigarh office from where he was placed under deemed suspension.

(c) Any other order/direction that Hon’ble Tribunal deems appropriate in the facts of the case.”

4. It is seen that the applicant has made a representation to respondent No.1 on 23.08.2016 (Annexure A/7) and the learned counsel for applicant submitted that till date, the applicant has not received any response from said respondent.

5. Therefore, without going into the merits of the matter, we dispose of the present O.A. at the admission stage itself by granting liberty to the applicant to make an exhaustive representation to respondent No.1

enclosing therewith a copy of this Order, within a period of one week from the date of receipt of a copy of this order and if any such representation is preferred within the time granted, respondent No.1 shall consider the same, keeping in mind the Rules and Regulations in force and answering all the grounds raised by the applicant in the O.A., and pass a reasoned and speaking order and communicate result thereof within a period of two months from the date of receipt of such representation. Though all the points to be raised by the applicant are kept open for the authorities to consider the same as per Rules and Regulations in force, still then we hope and suggest that if the grievance of the applicant is found to be genuine, then consider the claim of the applicant within a further period of three months and communicate to the applicant. Till the representation is disposed of and decision thereon communicated to the applicant, status quo as on date will be maintained by the respondents. As prayed by the applicant, the copy of this order along with paper book be transmitted to respondent No.1 by Speed Post, for which the applicant will deposit necessary charges with the Registry within one week from today.

(K.N. Shrivastava)
Member (A)

September 21, 2016
/sunil/

(A.K. Patnaik)
Member (J)