

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

OA-4044/2015

Reserved on : 14.07.2016.

Pronounced on : 18.07.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Sh. Tapas Karmakar,
S/o late Sh. Chittaranjan Karmakar,
R/o 8, Deshbandhu Nagar,
P.O.-Jalpaiguri, P.S.-Kotwali,
District-Jalpaiguri (West Bengal),
Presently posted as Sub Area Organiser,
O/o Area Organiser, SSB Rangia,
Village Garaka, P.O.&P.S.-Rangia,
Distt-Kamrup(Assam)-781354.

..... Applicant

(through Sh. Gautam Saha, Advocate)

Versus

1. The Union of India through
The Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Director General, Sashastra Seema Bal,
Force Headquarters, East Block-V, R.K. Puram,
New Delhi-110066.
3. Deputy Inspector General,
Sector Headquarters,
Sashastra Seema Bal, Jalpaiguri
(West Bengal)-735121.
4. Assistant Director (Personnel-I),
Force Headquarters, Sashastra Seema Bal,
East Block-V, R.K. Puram,
New Delhi-110066.
5. Staff Officer (Administration),
Frontier Headquarters, Sashastra Seema Bal,
Guwahati.
6. Area Organiser, Sashastra Seema Bal,
Rangia, Vill-Garaka, P.O.&P.S.-Rangia,
Distt-Kamrup (Assam), 781354.

.... Respondents

(through Sh. Subhash Gosain, Advocate)

ORDER

The applicant is working as a Sub-Area Organiser with the respondents. Vide order dated 17.04.2015, he was transferred from SHQ Jalpaiguri to Bhuiyapara Area. Aggrieved by this transfer, the applicant submitted a representation to the respondents on 22.04.2015. This was disposed of by the respondents vide their order dated 12.05.2015. The applicant has now filed this O.A. impugning the orders dated 17.04.2015 and 12.05.2015 and seeking cancellation of his transfer. It is not disputed that during pendency of the O.A. the applicant joined his duty in his new place of posting on 01.06.2015.

2. Learned counsel for the applicant argued that the applicant has been posted to an area where no such post is available. He argued that even the respondents have admitted this in their counter reply. To support his contention he has drawn my attention to various paras of the reply filed by the respondents, such as, reply to para-4.8 and 4.9 of the OA wherein the respondents have stated that Bhuiyapara area has not yet been operational and this matter was still under consideration with MHA. The only other ground urged by the applicant was that his wife, who was also working with the same organisation, was posted at Jalpariguri and because of his transfer his normal family life has been disrupted.

3. In reply, the respondents have stated that the applicant was transferred as per transfer policy guidelines after he had completed a normal tenure of 03 years at static location of Jalpaiguri. They have further submitted that Bhuiyapara area was functioning under Rangia area. A proposal for re-allocation of area offices was under consideration of MHA. Once this proposal is approved, existing area offices will be abolished and total 44 area offices would be created. In re-allocation, Sub-Area Organiser of Bhuiyapara area will

be re-allocated as area office. They have gone on to state that even though Bhuiyapara area has not yet been made operational, this was not creating any difficulty in drawing pay and allowances of the applicant. The applicant has been taken on the strength of Rangia area for the purpose of drawal of pay and allowances.

4. As regards posting of husband and wife at the same station is concerned, learned counsel for the respondents pointed out that while disposing of the representation of the applicant vide order dated 12.05.2015, the respondents had conveyed to the applicant the decision of the competent authority to consider the posting of his wife also at the same station as him in case she moves such a transfer application.

5. I have heard both sides and have perused the material on record. The only ground pressed by the applicant during arguments was that applicant has been posted to a station where no post existed. The respondents have, however, explained that the applicant has been allowed to draw his pay and allowances from Rangia area. The applicant himself, although he has been working in this position since 01.06.2015 i.e. the date on which he joined his new place of posting, has not stated that he was facing any difficulty in drawing his pay and allowances. As such, I do not find merit in his contention. The respondents in their support have relied on the judgment of Hon'ble High Court of Allahabad in Writ Petition (C) No. 1374/2015 dated 09.09.2015 – Sh. Kamal Bhagat Vs. UOI wherein it has been laid down that transfer was an exigency of service and an employee in service was under an obligation to be posted at any place. He had no vested right to remain in a particular place of posting. The respondents have also relied on the judgment of Hon'ble Supreme Court in the case of Mrs. Shilpi Bose and Ors. Vs. State of Bihar and Ors., AIR 1991 SC 532.

6. Considering the above, I am of the opinion that there is no merit in this O.A. The same is dismissed. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/