

**Central Administrative Tribunal
Principal Bench**

OA No.4053/2018

New Delhi, this the 26th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Mahitosh Kumar
Dy. Director
Group 'A',
Aged 45 years,
S/o Late Baleshwar Prasad Singh
R/o B-54, Parivahan Apartment,
Sector-5, Vasundhara,
Ghaziabad, UP. ... Applicant.

(By Advocate : Shri Rajeev Sharma)

Vs.

1. Union of India
Through its Secretary
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
2. The Chief Executive Officer
Food Safety & Standard Authority of India
FDA Bhawan, Kotla Road,
New Delhi.
3. The Director
Food Research & Standardization Laboratory,
Ahinsa Khand-II, near CISF Camp,
Indira Puram,
Ghaziabad, UP.
4. Dr. G. P. Sharma
Director
Food Research & Standardization Laboratory,
Ahinsa Khand-II, near CISF Camp,
Indira Puram,
Ghaziabad, UP.

5. Shri Surender Singh Raghav
 Chief Tech. Officer
 (CFL Kolkata)
 Food Research & Standardization Laboratory,
 Ahinsa Khand-II, near CISF Camp,
 Indira Puram,
 Ghaziabad, UP. ... Respondents.

(By Advocate : Shri Duli Chand and Shri Prateek Gupta)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman :

The applicant joined the organisation of Food Safety and Standards Authority of India on 07.05.2004 as Junior Analyst. He was promoted to the post of Senior Analyst in the year 2009. Through an order dated 15.10.2018, the applicant, who was working as Senior Analyst at FRSL at Ghaziabad transferred to CFL Kolkata. The said order is challenged in this O.A. on several grounds.

2. The applicant contends that as recently as on 12.10.2018 he has been promoted to the post of Deputy Director at Pay Level-11 and despite that he has been transferred on the assumption that he is still continuing as Senior Analyst. Other grounds, such as, that the son of the applicant is studying in Class X, and transfer in the middle of the academic year would cause hardship, are also pleaded.

3. The O.A. was listed for admission on 24.10.2018, and by taking note of the important factor, referred to above,

regarding the promotion of the applicant, we passed the interim order, and directed the learned counsel for respondents to obtain instructions in this behalf.

4. We heard Shri Rajeev Sharma, learned counsel for the applicant and Shri Duli Chand and Shri Prateek Gupta, learned counsel for the respondents.

5. It appears that the proposal for transfer of the Senior Analyst was mooted quite some time before 15.10.2018, and the applicant was working as Senior Analyst at that time. However, It is a matter of record that the applicant was promoted as Deputy Director in Pay Level-11 through order dated 12.10.2018, i.e., three days before the order of transfer. Though, both the orders are signed by the same officer, it appears that the factum of promotion of the applicant was not taken into account while the order of transfer was signed. A clear mistake of fact has crept into the order of transfer.

6. The applicant who was holding the post of Deputy Director, CFL, could not have been transferred as Senior Analyst. On this short ground, we allow the OA and set aside the order of transfer. However, we leave it open to the respondents to recognise the fact that the applicant is now holding the post of Deputy Director and make their own arrangements as are warranted in the interest of

administration, duly taking into account general policy guidelines, applicable to transfers. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/