

**Central Administrative Tribunal
Principal Bench**

OA No.2640/2018

New Delhi, this the 18th day of July, 2018

**Hon'ble Mr. Justice Dinesh Gupta, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Harish Kumar Gupta,
(PIS No.106169, ACIO-II/Exe.),
R/o C-9/2, Model Town-III,
Delhi-10009.

...Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Joint Director (Establishment),
Intelligence Bureau,
Ministry of Home Affairs,,
Government of India,
I.B. Headquarters, New Delhi.

...Respondents

(By Advocate : Shri Rajesh Katyal)

ORDER (ORAL)

Justice Dinesh Gupta, Member (J) :-

The office has raised an objection that the impugned order is not signed by the competent authority. Learned counsel for applicant submitted that he has downloaded this list from the net and that is why the impugned order is not signed. Office objection is removed.

2. Heard Shri Yogesh Sharma, learned counsel for applicant and Shri Rajesh Katyal, learned counsel, on receipt of advance notice on behalf of respondents.

3. Learned counsel for applicant submitted that the applicant was working as ACIO in the respondent Department and has been transferred to Lucknow Division vide order dated 13.03.2018. He was also relieved to join new station latest by 15.07.2018. The applicant also moved a representation on 19.03.2018 with request to cancel his transfer on the ground of spouse posting in New Delhi in Nigam Pratibha Vidyalaya, Delhi, but the same has not yet been disposed of. Hence, the OA.

4. Learned counsel for respondents submitted that he is not aware whether any representation is pending or moved by the applicant for which he wants certain instructions. Considering the arguments raised by the learned counsel for applicant and since the applicant has already been transferred and relieved, no useful purpose would be served to keep this OA pending.

5. The Hon'ble Supreme Court in the case of **S. C. Saxena v. Union of India & others** (2006) 9 SCC 583 has held as under:-

“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.”

6. Accordingly, the OA is disposed of with a direction to the applicant to first join at the transferred post in Lucknow and thereafter the respondents shall consider the applicant's representation sympathetically. However, it is made clear that the respondents shall consider the representation of the applicant only when he joins at new station. The same shall be decided by passing a reasoned and speaking order, in accordance with law. No costs.

(Nita Chowdhury)
Member (A)

(Justice Dinesh Gupta)
Member (J)

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