

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00104/2017

DATED THIS THE 28TH DAY OF JUNE, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)
HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

V. Srinivasalu
S/o Shri V.S. Obaiah
Aged above 49 years
Multi Tasking Staff
Admn. Comdt.
Station Headquarters Cell, Cubbon Road
Bangalore – 560 001

Now working at:
Depot Battalion
Madras Engineer Group and Centre
Near Ulsoor Lake
Shivanchetty Garden PO
Bangalore – 560 042
PIN 900493 C/O 56 APO

... Applicant

(By Advocate Shri S. Sugumaran)

Vs.

1. Union of India,
By its Secretary,
Ministry of Defence
South Block, DHQPO
New Delhi – 110 011.

2. The Directorate General of Staff Duties
SD-7 [Admn-Civ]
General Staff Branch
Integrated HQ of MOD [Army]
DHQ PO, New Delhi – 110 011.

3. The GOC Gen
Area Headquarters Bangalore
Karnataka & Kerala

Cubbon Road
Bangalore – 560001.

4. The Administrative Commandant
Station HQ Cell
Cubbon Road
Bangalore – 560001

5. The Commandant
Madras Engineer Group and Centre
Near Ulsoor Lake
Shivanchetty Garden PO
Bangalore – 560 042
PIN 900493 C/O 56 APO

...Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A):

The applicant has filed the present OA seeking the following reliefs:

- i. To quash the transfer order No. 7242/Q2/2016 dated 15th July 2016 issued by R-4 at Annexure-A1,
 - ii. To re-post the applicant at Station Headquarters Cell, Cubbon Road, Bangalore immediately.
2. The applicant was appointed as Conservancy Safaiwala (MTS) in 1990 in the office of the 4th respondent. He is aggrieved by the order dated 15.07.2016 (Annexure-A1) issued by the Administrative Commandant, Station HQ Cell, Cubbon Road by which he was transferred to Depot Battalion MEG & Centre, CO 56 APS. Since the said transfer to another establishment was arbitrary, the applicant along with others took up the matter to the Integrated Headquarters MoD (Army) at New Delhi through the All India Defence Employees Federation. The Respondent No. 2 vide order dated 22.11.2016 (Annexure-A2) held the transfer as irregular and indicated that as per policy Respondent No. 4 is not competent to order the posting and directed to

cancel the transfer order. However in spite of the said direction, Respondent No. 4 has not retracted the transfer order. Hence the applicant approached the Tribunal seeking the aforesaid reliefs.

3. The respondents have filed a reply statement in which they submitted that the applicant was appointed as Conservancy Safaiwala in 1990 with All India service liability. Due to shortage of staff as conservancy staff due to minimization of recruitment drive for appointment of such cadre, the applicant was detailed to HQ MEG & Centre by order dated 15.07.2016. The applicant did not report to that Centre but subsequently applied for Medical Leave from 18.07.2016 to 16.08.2016 vide application dated 30.07.2016 (Annexure-R3) and without any medical certificate. His application of leave and Last Pay Certificate was forwarded to MEG & Centre in August, 2016. The applicant finally reported to HQ MEG & Centre on 26.09.2016 and taken on their strength on the same date. The respondents have also given a detailed chronological statement showing the performance of duty and absence by the applicant since he reported to duty on 26.09.2016. The applicant has been absent for more than 120 days between 26.09.2016 and 20.03.2017 on various ground. The applicant also had come to the Station Cell on 22.07.2016 and misbehaved with contractual staff in the office premises and a complaint was lodged against him at the Police Station for the misbehavior (Annexure-R10). A warning has also been issued in connection with his irregularity at duty on 13.12.2016 and he was also issued a second warning for misbehaving and for using threatening language to the Controlling Officer by Depot Battalion, MEG & Centre on 18.01.2017.

4. The respondents submit that clarification was sent to the Integrated HQ of MoD that the applicant has not been transferred to any other station but deputed within the station. It has been clarified by the competent authority by signal message (Annexure-R14) that the Respondent No.4 is competent to deploy the applicant to MEG. Therefore there is no merit in the contention made by the applicant. The respondents have also filed an MA seeking vacation of the interim order dated 02.03.2017 in which there was a direction to make payment to the applicant the salary due to him from the month of September, 2016 to March, 2017 saying that such order was obtained by the applicant by suppressing the actual facts and the salary shall be paid as per rules.

5. Heard the counsel for both parties. The learned counsel for the applicant while reiterating the submission made in the OA submitted that Respondent No. 4 has no authority to transfer the applicant and it has been clearly indicated by the Integrated Headquarters by their communication dated 22.11.2016. In spite of that the transfer order has not been cancelled. Such an action by the respondents is highly irregular and hence should be set aside. The learned counsel for the respondents on the other hand submits that the order referred to by the applicant is only a deployment order and not a regular transfer order. The matter has since been referred to the Integrated Headquarters and it has been clarified that such transfer orders is merely for the purpose of cleanliness of station. He also mentioned that not only the applicant but 9 other persons were detailed to different stations and all except the applicant reported to the place they were deputed immediately. The applicant did not report to duty till 26.09.2016 but also applied for medical

leave without proper medical certificate that too after long absence. Further he has been on leave thereafter quite frequently. As regards the payment of salary is concerned, the respondents have taken action as per the admissible rules.

6. We have carefully considered the facts of the case and submissions made by either side. It is evident from the records that it is purely an administrative matter and the order dated 15.07.2016 pertain to detailment of conservancy staff. By the said order 10 conservancy staff persons were detailed to different units by the Administrative Commandant and all except the applicant joined immediately.

7. There was a representation by the Union and the matter was discussed at the JCM level and the Integrated Headquarters have indicated that the posting authority lies with the concerned branch Headquarters. However subsequently the Station Commandant had again taken up the matter with the Headquarters and as submitted by the learned counsel for the respondents since it is only a deployment order the Respondent No. 4 has authority to do the same. This being a purely administrative matter and the deployment of personnel should be done by the Head of the Unit. It is not necessary for the Tribunal to interfere in such matter of deployment of staff to different units. As regards the payment of salary during the period is concerned it has to be guided by the relevant rules.

8. Therefore on careful consideration of the matter we are of the view that any interference of the Tribunal in such administrative issues is not called for

or necessary. Hence we hold that the contentions of the applicant is clearly devoid of any merit and therefore the OA is liable to be dismissed.

9. The OA is accordingly dismissed. No order as to costs.

(P.K. PRADHAN)
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)
MEMBER (J)

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