

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE**

ORIGINAL APPLICATION No. 170/00030-31/2018

TODAY, THIS THE 9th DAY OF AUGUST, 2018

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. Shri J. Ravichandra,
S/o. Late J. Nagaraja Rao,
Aged about 50 years,
R/at Quarters No. 90,
Type- 2, Block – 12,
Bhavishyanidhi Enclave,
Vamnjoor,
Mangalore - 575 028
2. Shri George D'souza,
S/o. Leo D'souza,
Aged about 55 years,
R/at Immaculate,
Kakkunje, Santhekatte Post,
Udupi - 576 106

... Applicants.

(By Advocate M/s. Paanchajanya Associates)

Vs.

1. Central Provident Fund Commissioner,
Bhavishyanidhi Bhavan,
No.14, Bikaji Cama Palace,
New Delhi – 110 066
2. Additional Central Provident Fund,
Zonal Office,
Karnataka and Goa State,
Bhavishyanidhi Bhavan,
Rajaram Mohan Roy Road,
Richmond Circle, Bangalore – 25
3. Regional Provident Commissioner – 1,
Zonal Office,
'Kaveri' Bhavishyanidhi Enclave,
HMT Main Road, Jalahalli,
Bangalore – 560 013

... Respondents.

(By Advocate Shri P.I. Bhat for respondents 2 and 3)

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The applicants have prayed for cancellation of their transfer orders from Uduppi to Bangalore on grounds that it is against spirit of the similar case of transfer, which is sub judice before this Tribunal. They have also alleged that

the transfer order is issued without framing any transfer policy and is against the principles which determine the placement of surplus or excess staff. The applicants have also given personal reasons, like allergic asthma and the need for tending aged mother as grounds for not transferring them from their present place of postings. An interim order was issued on their request staying the transfer orders, which, later, on being informed by the respondents about the pendency of disciplinary proceedings against them, was modified by transferring them to Mangalore (instead of Bangalore). The respondents have requested for modification of this interim order also stating that they have huge excess staff in Mangalore.

2. The case was finally heard. Besides formal arguments, the applicants have also filed written arguments. After going through the pleadings and hearing both the sides, it is clear that the applicants have been transferred from the present place of postings due to alleged infractions on their part and on the basis of proposed disciplinary action. The applicants apparently and understandably made no mention of the likely disciplinary action against them in their O.As and have based their case entirely on general transfer policy regarding absorption/placement of surplus or excess staff and personal reasons. The applicants were certainly aware of the disciplinary proceedings against them and their not mentioning it can be considered as a case of not putting all facts before this Tribunal, before seeking a relief. It is also very clearly not a case of violation by the respondents of this Tribunal's earlier orders or the minutes of the meeting (Annexure A-20) which was quoted by the applicants in support of a general stay of such transfer by their superior authority. Since the transfer of these persons are not in violation of either the spirit or the expressed order of this Tribunal nor any violation of DoPT orders

or the orders of the superior authority regarding identification and placement of surplus staff, we cannot grant them the reliefs sought on these grounds. There is apparently a disciplinary proceeding pending against them which requires their shifting from the present place of postings. The respondents have made very clear that Mangalore is not a right place to post them where there are already 26 persons in excess of the sanctioned strength. We, therefore, vacate the interim order dated 2.2.2018 and dismiss the O.A. There shall be no order as to costs.

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

(DR. K.B. SURESH)
JUDICIAL MEMBER

Cvr.

Annexures referred to by the applicants :

Annexure-A1: Copy of the order dated 27.01.2017

Annexure-A2: Copy of the communication dated 24.04.2017

Annexure-A3: Copy of the communication dated 11.09.2017

Annexure-A4: Copy of the impugned order dated 09.01.2018

Annexure-A5: Copy of the DOPT order dated 26.03.2002

Annexure-A6: Copy of the DOPT order dated 26.03.2002

Annexure-A7: Copy of the Chapter 2 of General Office Procedure

Annexure-A8 Series: Copy of the court orders

Annexure-A9 Series: Copy of the office orders

Annexure-A10: Copy of the proceedings of the minutes at EPF Federation

Annexure-A11 Series: Copy of the application under RTI

Annexure-A12: Copy of the order dated 23.10.2017

Annexure-A13: Copy of the order dated 26.10.2017

Annexure-A14: Copy of the interim order of Central Administrative Tribunal, Bangalore Bench in a similar case in O.A. No. 656 to 691/2017

Annexure-A15: Copy of the medical certificate

Annexure-A16: Copy of the communication dated 10.01.2018

Annexures with reply statement:

Annexure-R1: Copy of the transfer order dated 01.05.2017

Annexure-R2: Copy of the transfer order dated 10.08.2017

Annexure-R3: Copy of the memorandum dated 07.07.2017

Annexure-R4: Copy of the memorandum dated 08.08.2017

Annexure-R5: Copy of the letter dated 31.10.2017

Annexure-R6: Copy of the letter dated 09.01.2018

Annexure-R7: Copy of the report dated 29.01.2018

Annexure-R8: Copy of the memo dated 04.10.2017

Annexure-R9: Copy of the letter dated 31.10.2017

Annexures with application for modification of interim order

Annexure-R10: Copy of vacancy position in Karnataka

Annexure-R11: Copy of the intimation/letter dated 09.02.2018