

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/00883/2018

Jabalpur, this Monday, the 10th day of December, 2018

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

S.K.Banjare S/o Parshadi Ram Banjare, aged about 32 years,
Presently posted as ACIO-I/G (PIS No.130319),
C/o Shri M.R.Chelak, behind Garden, Patrakar Colony,
Bilaspur (C.G.)-495001, Mobile No.7587054796 **-Applicant**
(By Advocate –**Shri Harsh Wardhan**)

V e r s u s

- 1. Union of India, through its Secretary, Ministry of Home Affairs, Government of India, New Delhi-110 116.**
- 2. Assistant Director, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Intelligence Bureau, Head Quarters, New Delhi-110 001.**
- 3. Jaidip Singh, Joint Director and Disciplinary Authority, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Government of India, Raipur (C.G.)-492001.**
- 4. Assistant Director, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Government of India, Raipur (C.G.)-492001. **- Respondents**
(By Advocate –**Shri Vivek Verma**)
(Date of reserving the order:05.12.2018)**

ORDER

By Navin Tandon, AM:-

The applicant is aggrieved by non-consideration of his request for posting at Bilaspur or at nearby places.

2. The applicant has contended that he was appointed as Assistant Central Intelligence Officer (for brevity 'ACIO')-II on 18.06.2009 and posted in the State of Assam in District Kabianglong – a highly sensitive area affected by north-east insurgency, where he worked for 4 years. Thereafter, his headquarters was changed and he was transferred under Subsidiary Intelligence Bureau (SIB), Raipur in October,2013 and posted in Narayanpur District. In 2015, he was transferred to Janjgir-Champa district. In April,2015 he was promoted as ACIO-I.

2.1 The applicant's wife Smt.Vandana Ahirwar/Banjare was appointed as Shiksha Karmi in Primary School, Silpahari, Janpad Panchayat, District Bilaspur and was later on transferred to Block Education Officer, Bilaspur. During her duty, she was blessed with a boy, named Akshay Banjare, on 07.03.2015. The applicant's wife and family is stationed in Bilaspur. Since the applicant's wife had already taken long leave for taking care of the child, the applicant was required to look after the child at home in Bilaspur, as a result the applicant took leave in the month of January till July,2017. After leave, the applicant joined his duties on 04.07.2017. He was suddenly transferred vide order dated 11.07.2017 (Annexure A-3) from Janjgir-Champa to Balrampur, which was again a naxal prone area and is far away from the place of the applicant and his family.

The applicant has contended that in Balrampur already sufficient staff was available and there was no requirement for transfer of an ACIO-I category employee. But in order to create a camouflage Mr. Akash Mann, ACIO-II was unnecessarily transferred from Balrampur to Korba. Vide order dated 01.08.2017 he was directed to report to Deputy Director SIB Raipur on 02.08.2017 before proceeding to Balrampur. The applicant joined his duties at Balrampur on 11.09.2017.

2.2 The applicant submits that soon after his joining at Balrampur, on 15.09.2017 his wife met with an accident due to imbalance. On account of this accident the applicant's son suffered internal injury in head which caused impairment of his speech and hearing. Therefore, the applicant made a representation on 26.09.2017 (Annexure A-5) requesting for his transfer to a place near Bilaspur like Janjgir, Raigarh or Kawardha so that he can help out his wife and look after his child. Since nothing was done he compelled to take leave. By the impugned memorandum dated 17.10.2017 his representation dated 26.09.2017 for transfer was rejected in most arbitrary and malafide manner.

2.3 The applicant has further contended that respondent No.3 is harassing him. He states that so many other employees and his colleagues are being comfortably considered and given postings on

the basis of husband and wife clause. However, in respect of his absence, the respondent No.3 has issued him a charge sheet dated 29.01.2018.

3. The applicant has, therefore, sought for the following reliefs in this Original Application :-

“8.1 That, the Hon’ble Tribunal may be kindly pleased to call for the entire records pertaining to the case of the applicant and in respect of the impugned order kept in possession of the respondents, for its kind perusal.

8.2 That, this Hon’ble Tribunal may kindly be pleased to quash and set aside the impugned order dated 17.10.2017 (Annexure A-1) passed by the respondent No.3 and declare the same to be illegal, arbitrary, discriminative and malafide in the eyes of law.

8.3 That, this Hon’ble Tribunal may kindly be pleased to direct the respondents to consider the application of the applicant for transfer and transfer him preferably to Bilaspur.

8.4 That, the Hon’ble Tribunal may be pleased to grant any other relief which the Hon’ble Tribunal deems fit and proper in the facts and circumstances of the present case.

8.5 That, the Hon’ble Tribunal in the facts and circumstances of the present case may further be pleased to grant cost of the application to the applicant”.

4. The respondents, by filing their reply, have submitted that Chhattisgarh is a LWE affected state which has witnessed many violent incidents in the past. Balrampur, located at the northern part of Chhattisgarh bordering Jharkhand is a highly LWE infested district in Chhattisgarh. In view of this a number of operations were planned to be launched at Balrampur and thus he was very

judiciously transferred to Balrampur in public interest. Further, the applicant who served at Guwahati for only 3 years on his first posting was consequently posted to his home state i.e. Chhattisgarh in August,2013 which does not ipso facto confer any right to the applicant to seek posting at the place of his choice. The applicant remained on unauthorized absence from duty for a period of 141 days from 13.02.2017 to 03.07.2017, which was later regularized by grant of suitable EL, HPL and EOL. The respondents submit that the leave of the applicant was never denied. He remained on leave for an extremely long period precisely for 288 days in 2017 and was still on unauthorized absence.

4.1 The respondents further submit that the applicant had indulged in a professional misconduct at Bilaspur on 18.02.2017 and a minor penalty of ‘reduction of pay in the time scale of pay by one stage for a period of 3 years without cumulative effect and without adversely affecting pension’ was imposed upon him vide order dated 28.11.2017 (Annexure R-10). In addition, another charge sheet was issued to him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 vide memo dated 29.01.2018 (Annexure R-11) on the charges of unauthorized absence from duty w.e.f. 11.10.2017 and (ii) habitual

nature of extending leave and staying on unauthorized absence from duty.

5. Heard the learned counsel of parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

6. It is for the administration to take appropriate decisions in the matters pertaining to transfer and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration. {See: **Union of India Vs. S.L. Abbas**, (1993) 4 SCC 357; **State of M.P. Vs. S.S.Kourav**, (1995) 3 SCC 270 **National Hydroelectric Power Corp. Ltd. Vs. Shri Bhagwan**, (2001) 8 SCC 574; **N.K.Singh Vs. Union of India**, (1994) 6 SCC 98; **State of U.P. Vs. Gobardhan Lal**, (2004) 11 SCC 402. Further, In the matters of **Bank of India Vs. Jagjit Singh Mehta**, (1992) 1 SCC 306, the Hon'ble Supreme Court has held that “There can be no doubt that ordinarily and as far as practicable the husband and wife who are both employed should be posted at the same station even if their employers be different. The desirability of such a course is obvious. However, this does not mean that their place of posting should invariably be one of their choice, even though their preference may be taken into account while making the decision in accordance with the administrative need”.

7. Thus, in view of these settled legal position, the applicant has no absolute right for his posting at Bilaspur or at a nearby place only on the ground that his wife is also a government servant who is working at Bilaspur.

8. Since the respondent-authorities have already considered and rejected the representation of the applicant, keeping in view the exigencies of service we do not find any ground to interfere with the impugned order of transfer.

9. Accordingly, the Original Application is dismissed, however, without any order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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