

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/021/464/2018, 465/2018 & 466/2018

Dated : 10/08/2018

BETWEEN

1. P. Ravi,
S/o. Sri P. Harilal,
Aged about 48 years,
Occ: Junior Works Manager (Mech), Gr.B,
O/o. Ordnance Factory, Yeddumailaram,
Sanga Reddy Dist.,
2. M. Prasada Rao, S/o. Sri Chandra Rao,
Aged about 52 years,
Occ: Junior Works Manager (Mech),
O/o. Ordnance Factory, Yeddumailaram,
Sanga Reddy Dist.,
3. Smt. C. Suchitra, W/o. Sri CSRC Murthy,
Aged about 49 years,
Occ: Junior Works Manager (Chem),
O/o. Ordnance Factory, Yeddumailaram,
Sanga Reddy Dist.

....Applicants in OA.464/2018

AND

1. Ordnance Factory Board, Government of India,
Ministry of Defence, Ayudh Bhavan, 10-A,
Shaheed Khudiram Bose Road, Kolkotta rep. by its
Director General.
2. The General Manager, Ordnance Factory,
Yeddumailaram, Sanga Reddy Dist.
3. The General Manager,
Heavy Vehicles Factory,
Avadi, Chennai.
4. The General Manager,
Ordnance Factory,
Khamaria, Maharashtra.
5. The General Manager,
Ordnance Factory, Bhandara.

....Respondents in OA.464/2018

1. O. Siddaramappa, S/o. Sri Anjaiah,
Aged about 55 years,
Occ: Junior Works Manager (Mech), Gr.B,
O/o. Ordnance Factory, Yeddumailaram, Sanga Reddy Dist.

....Applicant in OA.465/2018

AND

1. Ordnance Factory Board, Government of India,
Ministry of Defence, Ayudh Bhavan, 10-A,
Shaheed Khudiram Bose Road, Kolkotta rep. by its
Director General.
2. The General Manager, Ordnance Factory,
Yeddumailaram, Sanga Reddy Dist.
3. The General Manager,
Heavy Vehicles Factory,
Avadi, Chennai.

....Respondents in OA.465/2018

1. T. Thirumaliah, S/o. Sri Ramulu,
Aged about 55 years,
Occ: Junior Works Manager (Elec), Gr.B,
O/o. Ordnance Factory, Yeddumailaram, Sanga Reddy Dist.,

....Applicant in OA.466/2018

AND

1. Ordnance Factory Board, Government of India,
Ministry of Defence, Ayudh Bhavan, 10-A,
Shaheed Khudiram Bose Road, Kolkotta rep. by its
Director General.
2. The General Manager, Ordnance Factory,
Yeddumailaram, Sanga Reddy Dist.
3. The General Manager, Heavy Vehicles Factory Varangaon.

....Respondents in OA.466/2018

Counsel for the Applicants	: Mr. K. Lakshminarasimha
Counsel for the Respondents	: Mr. K. Rajitha, Sr.CGSC

CORAM :

THE HON'BLE MR.JUSTICE R. KANTHA RAO, JUDL. MEMBER
THE HON'BLE MRS. NAINI JAYASEELAN, ADMN. MEMBER

ORAL ORDER

{ Per Hon'ble Mr. Justice R. Kantha Rao, Judl. Member }

Heard Dr. K. Lakshmi Narasimha, learned counsel appearing for the Applicants and Smt. K. Rajitha, learned Senior Central Govt. Standing Counsel appearing for the Respondents.

2. The Applicants in all these cases who are Junior Works Managers, filed the present O.As challenging the impugned orders dated 02.04.2018. Since the issues to be addressed and decided are one and the same in all the three O.A.s, they are disposed of by the following common order.

3. Earlier when the Applicants and some others were transferred, they filed the O.A.s challenging the transfer orders. The Tribunal stayed the transfer orders accepting the contention of the Applicants that there was no uniform transfer policy. On that, the Respondents cancelled all the transfers and introduced a new transfer policy according to which, the present impugned orders are effected. The transfers are challenged by the Applicants on the ground that they were made by pick and choose method and no uniform procedure had been followed in making the transfers and there was no input before the Standing Committee to effect the transfers.

4. On the other hand, it is the contention of the Respondents that the transfers were made on functional ground and in public interest. Under the

new transfer policy, these transfers cannot be challenged on the ground that the officers in the cadre of the Applicants who have put in more years of service were not transferred.

5. Before going to decide the issue, it is necessary to look into the new transfer policy.

“1. Objectives:

- (i) To promote core competencies and domain knowledge among Group-B officers while meeting administrative requirements of transfer & posting.
- (ii) To enable exposure to new areas of work and encourage second and third line of experts
- (iii) To accommodate genuine problems and difficulties of the Gp-B officers in a transparent manner objectively
- (iv) To balance the trade-wise strength of Gp-B officers in the Factories/ Units to the extent possible, vis-a-vis the sanctioned strength.

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2.2 Transfer on functional grounds:

- i) Normally, the tenure of JWM/ Sr. PS/PS in a Factory/ Unit in the existing grade shall be for 10 years after which they will be considered for transfer on functional grounds.
- ii) Normally, in the case of officers promoted to JWM/ Sr. PS/ PS from lower grades, the total continuous tenure in the factory/ unit shall be 20 years after which they will be considered for transfer on functional grounds.
- iii) The transfer on completion of tenure as referred at 2.2 (i) & 2.2 (ii) will be considered except for the officers who are required to be retained in the factory on extreme functional requirement for which Sr.GM/ GM HOU has to justify the retention functionally.
- iv) JWMS promoted to the grade through LDCE shall be transferred out of the Factory/ Unit at the time of their promotion, except the cases where retention is required on extreme functional ground for which Sr. GM/ GM HOU has to justify the retention

functionally.

- v) The officers left with less than 5 years of service will not be considered for transfer on functional grounds. For reckoning the period of 5 years, 1st April of the year shall be the crucial date for determining the same.”

6. The transfer are obviously not transfers on administrative grounds and also not based on any request. They are said to be made on functional ground and in public interest. Dr. K. Lakshmi Narasimha, learned Senior Standing Counsel appearing for the Applicants submits that as no uniform policy has been followed while effecting transfers, the entire material which was placed before the Standing Committee has to be summoned to justify or reject the impugned transfer orders. However, according to the learned counsel, there were no such inputs submitted to the Standing Committee and the transfers were made simply basing on the suggestions made by the local office.

7. On the other hand, Smt. K. Raitha, learned Senior Standing Counsel appearing for the Respondents would submit that the transfer is on functional ground and in public interest.

8. The only issues which are required to be examined by the Tribunal are as to whether any policy guidelines are violated or whether there is any violation of statutory rule or whether the transfers are prompted by malafides.

9. While deciding the issue, it requires to be remembered that this Court, while dealing with the issue of transfer, does not sit in judicial review of the transfer order passed by the competent authority. It is well settled that the transfer order can be interfered only when it is in violation of statutory rules or is prompted by malafides. In the instant case, though the contention of the

Applicants is that the transfers were made by pick and choose method, no malafides have been attributed in the O.A. to the Respondents. There is also no denial to the fact that the transfers are not in violation of the transfer guidelines. While deciding the issue relating to the transfer, the Tribunal would only examine the above mentioned two issues namely violation of statutory rules and malafides but is not supposed to enter into a thorough investigation into the fact whether the transfers are justified or not. So long as the transfers are in conformity with the transfer guidelines and are not promoted by malafides, the Tribunal is not supposed to interfere with the transfers. A person who challenges the transfer order is not supposed to contend that a why a person who had put in more years of service is not transferred. It is for the administration to decide as to who is to be transferred and who is not to be transferred because the transfers are mainly based on functional ground. The administration will be in a better position to decide the persons to be placed at various places.

10. In the instant case, as we do not find any violation of transfer policy and we are constrained to come to the conclusion that transfers are not promoted by malafides, we are not inclined to interfere with the impugned transfer orders.

11. Learned Senior Counsel appearing for the Applicants also brought to our notice that it is mentioned in the impugned transfer order that the transfer is of permanent nature and it deprives the Applicants to make any request/representation against the proposed transfer under any circumstances and submits that it causes much hardship and irreparable loss and, therefore, such a clause is not warranted in transfer orders.

12. Adverting to the said clause in the transfer policy, we are of the considered view that there shall not be any such clause in the transfer order that the transfer is of permanent nature and, therefore, the Applicants are at liberty to make representation to the Respondents at any time expressing their inconvenience or difficulty to stay at a particular station basing on various grounds such as health, spouse, education of children, etc.

13. The O.As are dismissed. No order as to costs.

(NAINI JAYASEELAN)
ADMN. MEMBER

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

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