

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

**Original Application No.021/00485/2017 &
MA 18/2018**

Reserved on : 05.10.2018

Order pronounced on : 08.10.2018

Between:

R. Gokulakrishnan, S/o. Late M. Raju,
Aged about 57 years, Occ: Regional Director,
O/o. Regional Directorate of NSS,
C Block, 3rd Floor, Kendriya Sadan,
Sultan Bazar, Koti, Hyderabad – 500 095.

... Applicant

And

1. Union of India, rep. by its Secretary,
Department of Youth Affairs,
Ministry of Youth Affairs & Sports,
Shastri Bhavan, Dr. R.P. Road, New Delhi – 110 001.
2. The Joint Secretary,
Department of Youth Affairs,
Ministry of Youth Affairs & Sports,
Shastri Bhavan, Dr. R.P. Road, New Delhi – 110 001.
3. The Director,
Directorate of National Service Scheme,
Government of India, 12/11,
Jamnagar House, New Delhi – 110011.

... Respondents

Counsel for the Applicant	...	Dr. A. Raghu Kumar
Counsel for the Respondents	...	Mr. M. Venkata Swamy, Addl. CGSC

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

OA is filed challenging the 1st respondent order in F. No. A-12015/1/16-NSS dated 13.06.2017 transferring the applicant from the post of Assistant

Programme Adviser at NSS Regional Directorate, Hyderabad to NSS Regional Directorate, Bhubaneswar.

2. Brief facts of the case are that the applicant was posted as Youth Officer (Gazetted Group – B), at Hyderabad in the respondent organization on 24.03.2011. Thereafter, he was promoted in Group A cadre in the year 2015 and has been continuing to work at Hyderabad. During rotational transfer, in the year 2017, the applicant represented to the respondents that as per the transfer guidelines, he is due for transfer only in July 2020. The rotational transfer guidelines state that a Group B Gazetted officer shall be transferred to another station on completion of 7 years in a particular station and Group A officer after completing 5 years at a particular station based. Further, his age of superannuation being 31.12.2019, the applicant requested that he should not be disturbed. However, the respondents vide order dt. 13.06.2017 transferred the applicant and posted him as Assistant Programme Adviser at Bhubaneswar. In his place, another officer by name M. Ramakrishna, Group B officer was posted to Hyderabad. Against the said transfer order, the applicant moved this Tribunal and this Tribunal granted an interim order of status quo in respect of the applicant till the next date of hearing and the said interim order continued till this date.

3. The contention of the applicant is that after being promoted as Group A officer in 2015, he is eligible for rotational transfer in 2020 as per the transfer guidelines. Hence, issuing transfer earlier to that is against the guidelines issued by the respondents themselves. Further, posting a Group B officer against Group A post is objectionable. The applicant based on these grounds and also poor health

requested respondents not to disturb him. Yet his request has not been considered. The applicant also states that he is due to retire on 31.12.2019, which is less than two years and therefore, he prays for retention at Hyderabad.

4. The respondents contend that when the transfer order was issued on 13.06.2017, he had more than two years to retire and therefore, the claim that he has only less than two years to retire should not be considered. The applicant has also spent nearly 7 years in Hyderabad. Due to the interim stay granted by this Tribunal, he is continuing at Hyderabad from the date of transfer order i.e. 13.06.2017. On administrative grounds, he is required at Bhubaneswar. Further, posting of the officer to Hyderabad from Bhubaneswar was on spouse grounds. Therefore, they sought for vacation of the interim order and dismissal of the OA.

5. Heard learned counsel for both sides and perused the documents on record.

6. Counsel for the applicant has vociferously contested stating that a Group B officer cannot hold a superior post of Group A. As per the transfer guidelines, the applicant has not completed 5 years at Hyderabad after being promoted to Group A cadre. Manning the post at Hyderabad is as important as manning the one at Bhubaneswar. Therefore, the respondent should not discriminate between the two officers by favouring a junior officer with a posting to Hyderabad. The applicant is also due for retirement within two years and hence, his case for retention has to be considered, for reasons cited.

7. Learned counsel for the respondents has argued that posting has been done on administrative grounds because at Bhubaneswar there are many issues to be handled, by a senior and an experienced hand. Mr. M. Ramakrishna has been posted from Bhubaneswar to Hyderabad on spouse ground, which is provided for under the DOPT orders.

8. It is evident from the facts stated above that the officer has been working at Hyderabad in Group A and Group B posts for nearly 7 years. The representation of the applicant was duly considered by the respondents and thereafter, a transfer order was issued in the administrative interest. Group A cadre officers are liable to be posted anywhere in the country. When the order was issued, the applicant had more than 2 years to retire. However, due to the intervention of this Tribunal, the transfer order was not given effect to. An officer has been posted to Hyderabad on spouse ground, which is provided for in the transfer guidelines of the Government of India. The officer has been posted because of his seniority, experience and ability to handle situations required to be handled by a senior officer at Bhubaneswar. It is common in Government of India for a Group B officer to hold a Group A post on officiating basis with certain restrictions in regard to exercise of statutory powers. There is no bar not to post Group B officer against Group A post on officiating basis. Hence, the contention of the applicant on this ground is invalid. Hence, the plea of the applicant to hold on to Hyderabad does not stand to reason. Transfer is not a punishment. When the respondents have promoted him to Group A cadre, he was retained at Hyderabad and now his services are required at Bhubaneswar. The respondents have stated that though a tenure period of 5 years is prescribed in Group A position, yet for administrative reasons, they had to post the

applicant at Bhubaneswar. It is the discretion of the respondents to place officers on administrative grounds wherever required. We do not see any malafide intention in transferring the applicant to Bhubaneswar and it is purely in organizational interest. The applicant has also not put forth any compelling reasons to intervene on his behalf.

9. In view of the above, the request of the applicant to be retained at Hyderabad through the intervention of this Tribunal cannot be considered. Hence, the OA is liable to be dismissed. Accordingly, OA is dismissed. MA filed by the respondents for vacating the interim order stands allowed.

10. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 8th day of October, 2018

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