

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

Original Application No.021/00517/2017

Date of C.A.V. : 07.12.2017

Date of Order : 15.12.2017

Between :

Shalindra P Dhan Vijay, S/o Pundlik,
Aged 50 years, Director (Geology) Geological
Survey of India, State Unit, A.P. and Telangana,
Hyderabad.

... Applicant

And

1. The Union of India, rep. by its Secretary to
Government, Department of Ministry of Mines,
Geological Survey of India, New Delhi.

2. The Director General of Geological Survey of
of India, J.L.Nehru Road, Government of India,
Kolkata.

3. The Additional Director General of
Geological Survey of India,
Southern Region, Hyderabad.

... Respondents

Counsel for the Applicant	...	Mr. D.Linga Rao, Advocate
Counsel for the Respondents	...	Mrs.K.Rajitha, Sr.CGSC

CORAM:

<i>Hon'ble Mr.Justice R.Kantha Rao</i>	<i>...</i>	<i>Member (Judl.)</i>
<i>Hon'ble Mrs.Minnie Mathew</i>	<i>...</i>	<i>Member (Admn.)</i>

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

This OA is filed assailing the order dated 13.06.2017 transferring the applicant from the office of the Geological Survey of India, Southern Region, Hyderabad to North Eastern Region, Dimapur.

2. While the applicant was working as a Director in Southern Region, Geological Survey of India, Hyderabad, he was transferred to North Eastern Region, Dimapur by order dated 13.06.2017. The applicant submits that as he has to attend the District Courts at Nagpur in connection with some cases pertaining to the family disputes between him and his wife, it causes much hardship to him if he is transferred to a far off place like Dimapur in the North Eastern Region. Before filing the OA, he submitted representations to the respondents dated 15.06.2017 and 20.06.2017 requesting either to cancel the transfer order in toto or to differ the transfer for one year so as to enable him to attend the cases relating to his family disputes in different District Courts at Nagpur.

3. While the OA is pending, the representation submitted by the applicant had already been rejected by order dated 31.07.2017. However, the Tribunal vide order dated 05.07.2017 directed the respondents to reconsider the representation of the applicant dated 15.06.2017 and pass a reasoned and speaking order within a period of four weeks and till then status-quo in respect of

transfer be maintained. Subsequently the representation was disposed of by a reasoned order dated 31.07.2017 by the respondents and thereafter the status-quo was not extended. Aggrieved thereby the applicant filed Writ Petition No.32293/2017 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. The Writ Petition was dismissed vide order dated 21.09.2017 with the following observations :

“In the light of the above, we are not inclined to entertain this Writ Petition at this stage for adjudication on merits. However, as the OA is posted to 23.10.2017 and having regard to the urgency pleaded by the petitioner, the Tribunal is requested to pass a final order either in the OA or at least on the interim relief claimed by the petitioner on the next date of hearing. In the meantime if the petitioner has reported at the transferred place, the same shall not be understood as his waiving his right to pursue the reliefs sought for in the OA and the same however shall be subject to the outcome of the order that may be passed by the Tribunal.”

4. Pursuant to the aforementioned order, the Tribunal took up the main OA for hearing and heard the learned counsel on either side and perused the material papers available on record.

5. The principal contention urged by the respondents as could be seen from the reply is as under :

“It is submitted that, from Geological Survey of India, Dimapur, ten field based (M-I/M-II/M-IV) projects and two Headquarter based projects have been taken up in the Field Season Programme 2017-2018. In consonance of the rules and responsibilities of Junior Administrative Grade (Geology) (JAG) officers, three JAG officers are required to be posted at Dimapur. After the transfer of Shri K.V.Maruthi, Superintending Geologist from Geological Survey of India, Dimapur on completion of NER tenure, the Geological Survey of India officers at North Eastern Region, Dimapur is left with only two Superintending Geologists. Therefore, there is an urgent requirement of one JAG level officer at Geological Survey of India, North Eastern Region,

Dimapur against lateral transfer of Shri K.V.Maruthi. Hence the contention of the applicant is strongly denied.”

6. As per the transfer guidelines in respect of posting on promotion / rotational posting, the tenure of an officer is minimum for a period of four years, for a maximum of five years at a single station. The contention of the applicant is that the respondents have been misapplying the five years rule according to their convenience, even though he did not complete five years at a single station. In this context it would be necessary to mention that earlier in 2011 the applicant was transferred from Nagpur to Shillong on the very same ground, which has been urged in the present OA, the applicant challenged the said transfer order in Writ Petition No.3393/2011 before the Hon'ble High Court, Bombay, Nagpur Bench. Pursuant to the order dated 23.08.2011 passed in the said Writ Petition, the 2nd respondent issued proceedings dated 30.09.2011 modifying the transfer order of the applicant and posted him to GSI, SR, Hyderabad. He joined at Hyderabad on 04.11.2011. Subsequently, he was promoted to the post of Director and had been retained in Hyderabad till the date of present transfer.

7. The version of the respondents is that as per para 4.9 of the transfer and placement policy to the extent of Group A & B (Gazetted) officer of GSI, 'a single station means any position in any of the offices of GSI at the particular station'. The said statement made by the respondents is correct as is evident from the circular available on record. Therefore, the applicant worked in Hyderabad for

a period of 05 years 09 months and his version that his tenure as a Director in Hyderabad station can only be taken into consideration is wholly incorrect and cannot be accepted.

8. Obviously in his entire career the applicant has not served in North Eastern Region, which is a tenure posting of 2,3 years and the persons who have not served in the North Eastern Region were chosen to the said posting. Under the transfer proceedings dated 13.06.2017, 23 officers of different cadre were transferred. Except the bald assertion in the OA that his transfer was prompted by malafides, no material or any circumstance brought on record by the applicant to view that the transfer is selective or prompted by malafides. As could be seen from the reply statement, the applicant's request for reconsidering the transfer was rejected by the competent authority on the following grounds :

(I) Operational requirement of one Director (Geology) at North Eastern Region, Dimapur.

(II) Completion of maximum tenure by the applicant at Hyderabad.

(III) The applicant has not served in North Eastern Region in his service career.

9. Though the personal circumstances of the officer are required to be considered under the transfer policy, clause 11.0 relating to transfer on administrative grounds or in public interest has overriding effect. The said clause

lays down that notwithstanding anything contained in this policy, Government may transfer or post any officer to any station or post in public interest depending on the domain / terrain specialization and other functional requirement. We do not agree with the contention put forth by the applicant that the transfer is prompted by malafides. The transfer has obviously been made on administrative grounds and in public interest. Merely because the applicant is required to attend some cases in the District Courts of Nagpur on account of the disputes with his wife, the administrative exigency or public interest cannot be made to suffer. We, therefore, absolutely see no merit in the OA.

10. In the result, the OA is dismissed without any order as to costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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