

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. O.A.No.350/01152/2016

Date of order : 18.8.16

Present : Hon'ble Mrs. Urmita Datta Sen, Judicial Member

PARESH NATH SEN

VS.

UNION OF INDIA & ORS.
(Defence)

For the applicant : Mr. C. Sinha, counsel

For the respondents : Mr. P. Mukherjee, counsel

ORDER

The instant application has been filed under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

- (a) To set aside the impugned order being No.131322/PO/54/Engrs/E1C(1) dated 05.08.2015 as regard the applicant is concerned ;
- (b) To set aside and quash Impugned Movement Order dated 28.12.2015.
- (c) To set aside and quash Impugned Order being No.131322/2/7B/27/Engrs/E1C(1) dated 08.01.2016;
- (d) To set aside and quash Impugned Order being No.131322/PO/52/Engrs/E1C(1) dated 09.05.2016;
- (e) To set aside and quash Impugned Letter No.131322/2/7B/PNS/10/Engrs/E1C(1) dated 14.07.2016 issued by Chief Engineer, Head Quarters, Eastern Command;
- (f) To set aside and quash Impugned Movement Order dated 22.07.2016 issued by EE(SG), Garrison Engineer(N) Kolkata;
- (g) To direct the respondents to produce all the records relating to the instant case specially, records related to cancellation and subsequent posting of Subrata Bandyopadhyay and Bijay Krishna Nandy;

h) To direct the respondents to allow the applicant to continue in his present place of posting;

i) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

2. According to the applicant, he was appointed on 31.12.2003 as LDC and was posted at GE Project, Kolkata. Thereafter, he was transferred to Headquarter, CEEC, Kolkata in November, 2006. Further, he was transferred to G.E., Gangtok in April, 2010. While working in Gangtok, he applied for suitable posting on medical ground. In pursuance of his request, he was again posted at Garrison Engineer (North), Kolkata on 08.01.2012 vide order dated 30.11.2011(Annexure A-1). He was promoted to the post of UDC w.e.f. 10.01.2012 and is presently working in the said position at Kolkata. In the meantime, he was asked to submit one repatriation proforma regarding choice of station for posting. On receiving the same, he made a representation to the authorities on 05.11.2014(Annexure A-2) ventilating his grievances therein. Said representation was rejected vide letter dated 21.11.2014(Annexure A-3) and he was directed to forward repatriation form alongwith three choices by 30.11.2014 against which the applicant submitted another representation dated 29.11.2014(Annexure A-4) to the Chief Engineer, Headquarter, Eastern Command and prayed for continuance at the present place of posting and preferably at Barrackpore/Ishapore/Kakinada. According to the applicant, subsequently he had to submit the repatriation proforma under the compelling circumstances with choice stations (a) Narangi, (b) Rangia and (c) Gangtok. On 05.08.2015, an order regarding posting/transfer was issued, wherein name of the applicant appeared at Sl.No. 'h' with movement order dated 19.09.2015 (Annexure A-5). Against the same, the applicant made a representation dated

11.

30.09.2015(Annexure A-6) for deferment of posting on the medical treatment ground as well as daughter's education. Vide letter dated 28.12.2016(Annexure A-7), the CWE(Suburb), Barrackpore recommended for extension of the period upto 30.04.2016 and vide letter dated 01.01.2016(Annexure A-9) directed the G.E.(N) Kolkata to keep pending the posting of the applicant as the case has already been taken up for review with the Headquarters, CEEC, Kolkata. However, a movement order was issued on 28.12.2015(Annexure A-8) by the G.E.(North) Kolkata which was kept in abeyance vide order dated 05.01.2016(Annexure A-10). Thereafter vide letter dated 08.01.2016, the application of the applicant dated 30.09.2015 was rejected and he was directed to join at Narangi forthwith. He made representation against the same on 09.01.2016 but his prayer was rejected vide order dated 09.05.2016. Being aggrieved the applicant has filed the instant application.

3. No reply has been filed. The respondents' counsel made his verbal submission.
4. Heard ld. counsel for the parties and perused the materials available on record.
5. Ld. counsel for the applicant insisted for an interim relief. With the consent of both sides, the matter was heard finally.
6. According to the respondents, the applicant was considered on medical grounds and he was brought to Kolkata back after serving at Gangtok for two years only. Again his transfer order was kept in abeyance for more than two years and since it is a tenure transfer, further consideration cannot be made. Counsel for the respondents further submitted that the applicant himself has given his choice of posting as



'Narangi', therefore, he was posted there. As per the respondents, the applicant should join the place of transfer and can make representation after serving there at least for six months and thereafter his case may be considered afresh as per the extant rules.

7. During the course of hearing, Id. counsel for the applicant has fairly submitted on instruction that the applicant is ready to join the place of his transfer if the respondents consider his case on medical grounds.

8. In view of the above, I do not find any reason to interfere with the matter at this stage and the applicant is directed to join the place of his transfer forthwith. However, as stated by the respondents' counsel, the applicant will be at liberty to file a representation to the authority concerned ventilating his grievances, at least six months after his joining the new place of transfer. The respondent authorities may consider the representation of the applicant as per the extant rules.

9. With the above observations and direction, the application is disposed of. No order as to cost.

Al
 (Urmita Datta Sen)
 Judicial Member

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- (a) Sl. No. of the appln.....
- (b) Name of the applicant.....
- (c) Dt. of presentation or application for copy.....
- (d) No. of pages.....
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- (f) Dt. of preparation of copy..... *24/8/16*
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