

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.227/2017

Date of Decision: 5th April, 2017.

CORAM: HON'BLE Ms. B. BHAMATHI, MEMBER (A)

Shri Vijay Nhanu Warang,
Age 54 years, Son of Nhanu Warang,
Working as Assistant Registrar, ITAT
Pune Bench (Under Transfer),
Residing at A/2, 205 Borivali Shyamkrupa
CHS Ltd., Borivali (West),
Mumbai 400091.

...Applicant

(By Applicant Advocate: Shri. S.V. Marne)

Versus .

1. Union of India,
Through the Secretary,
Ministry of Law & Justice,
Department of Legal Affairs,
'A' Wing, Shastri Bhavan,
New Delhi 110001.
2. The President,
Income Tax Appellate Tribunal,
Pratishtha Bhavan, 3rd & 4th floors,
101, Maharshi Karve Marg,
Mumbai 400020.
3. The Assistant Registrar,
Income Tax Appellate Tribunal

Pratishtha Bhavan, 3rd & 4th floors,
101, Maharshi Karve Marg,
Mumbai 400020.

... Respondents

(Respondents by Advocate None)

ORDER (Open Court)

Per:- HON'BLE Ms. B. BHAMATHI, MEMBER (A)

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“(i). This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining teh same quash and set aside the impugned transfer order dated 31.03.2017 qua the applicant.

(b). Costs of the application be provided for.

(c). Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed.”

2. The applicant is aggrieved by the impugned transfer order dated 31.03.2017 on the ground that he has been illegally transferred from Pune to Cuttack in breach of transfer policy. Earlier, vide order dated 16.02.2017 the applicant was transferred from Mumbai Bench to Pune Bench by R-2. The R-2 has again transferred the applicant within a short time of one month from Pune to Cuttack Bench in violation of transfer policy.

2.1. The applicant admits that he had completed the

five year tenure as Assistant Registrar in Mumbai Bench and became due for transfer on the basis of transfer policy. He also submits that his wife, who has 75% vision disability, is employed in MTNL, Mumbai. Before passing of the transfer order dated 16.02.2017, the applicant was asked for his choice posting and the applicant had given his first choice posting as Pune. The applicant has two children, who are studying in colleges in Mumbai. However, the applicant chose Pune. Since he could reach Mumbai during weekends or be available in case of any emergency to take care of his family, in a situation where his visually challenged wife cannot shoulder the entire responsibility. However, posting him now to Cuttack would involve serious hardship to himself and his family. The applicant made a representation on 03.04.2017 to R-2. The applicant has also stated he has not been relieved from ITAT, Mumbai Bench and he is presently on leave from Pune Bench. The prayer for interim relief is now for staying the operation, implementation and effect of the transfer order dated 31.03.2017 qua the applicant and to permit him to work as Assistant Registrar at Pune Bench of ITAT.

3. Heard the learned counsel and perused the records.

4. At the outset, para-13 of the transfer policy reads as follows:-

“13.1. Whenever a transfer order is issued, the officer/Official concerned shall comply with the order without delay. It would be open to an officer/official to file review application/appeal through proper channel to the President, Income Tax Appellate Tribunal against a transfer order within seven days from the date of receipt of the order. All such review applications/appeals shall be with specific reference to the provisions of this Policy.

13.2. In the event of the transfer order not being stayed/modified/cancelled, a sought for in the representation, within seven days from the date of review application/appeal, the Deputy Registrar/Assistant Registrar of the Bench (es) concerned shall ensure that the concerned officer/official is relieved immediately on receipt of decision/order of the competent authority, on the review application/appeal or on expiry of a period of seven days from the date of filing/review application/appeal, whichever is earlier.”

5. Accordingly, in the light of the policy and to meet the ends of justice, R-2 is directed to dispose

of the representation of the applicant dated 03.04.2017 after granting personal hearing to the applicant and pass a reasoned and speaking order within a period of two weeks from the date of receipt of certified copy of this order. Till the disposal of the representation, the impugned order shall not be given effect to. The applicant is at liberty to approach the appropriate legal forum to take up his matter in case his grievance still persists.

6. Accordingly, OA is disposed of at admission stage with above directions. The Tribunal has not gone into the merits of the OA. No order as to costs.

Dasti.

(Ms .B. Bhamathi)
Member (A)

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