

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No. 127 of 2017

Date of Reserve:19.03.2019

Date of Order:09.04.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Prahallad Das, aged about 52 years, S/o. Late Nagendra Das presently working as Scientist-B (Junior Hydro Geologist), O/o Regional Director, Central Ground Water Board, South Eastern Region, Bhubaneswar, At/Po. Khandagiri, Bhubaneswar-751 030, District-Khurda.
...Applicant

By the Advocate (s)-M/s.D.K.Panda, G.Sinha, A.Mishra

-VERSUS-

1. Union of India represented through the Secretary to Government of India, Ministry of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.
2. The Chairman, Central Ground Water Board, Bhujal Bhawan, N.H-IV, Faridabad, Haryana-121 001.
3. Regional Director, Central Ground Water Board, South Eastern Region, At/Po. Khandagiri, Bhubaneswar-751 030, District-Khurda.
4. Anirvan Choudhary presently working as Assistant Hydrogeologist, O/o Regional Director, Central Ground Water Board, South Eastern Region, At/Po. Khandagiri, Bhubaneswar-751 030, District-Khurda.
5. Director (Administration), Central Ground Water Board, Bhujal Bhawan, N.H-IV, Faridabad, Haryana-121 001.

.....Respondents

By the Advocate(s)-Mr.P.K.Mohanty

O R D E R

PER MR. GOKUL CHANDRA PATI, MEMBER(A) :-

In this case, the applicant is aggrieved because of his transfer to Agartala vide order dated 20.1.2017 (Annexure-A/2) on the ground that it arises out of mala fide. On applicant's first OA challenging the transfer, the respondents

were directed to dispose of his representation, which was accordingly considered and rejected vide order dated 3.3.2017 (Annexure-A/5). Both the orders at Annexure A/2 and A/5 have been impugned in this OA.

2. Vide order dated 10.3.2017, the OA was admitted and direction was given to maintain the status-quo of the applicant as on the date till next date of hearing and the same interim order is continuing to operate and the applicant is continuing at Bhubaneswar by virtue of the aforesaid interim order.

3. We have heard learned counsels for both the parties. Applicant's counsel drew our attention that the applicant in the meantime has submitted three options for posting as per the current Transfer Policy guidelines vide letter dated 11.12.2017, copy of which has been filed by the applicant as Annexure-A/7 through an Affidavit dated 20.2.2019. The options given by the applicant as per the policy at A/7 are for transfer to the following places through his letter at Annexure-A/9:-

“1. RGI, Raipur, 2. SUO, Ranchi, 3. SUO, Vishakhapatnam”

It is submitted by the applicant's counsel that his transfer to the places opted by him be considered in modification of his transfer to Agartala vide order at Annexure-A/2.

4. Learned counsel for the respondents objected to the submissions and prayed for vacation of the interim order dated 10.3.2017 to maintain status-quo of the applicant.

5. It is noted that after rejection of the applicant's representation on 3.3.2017, the applicant was not relieved from his post till 10.3.2017 when the interim order to maintain status quo was passed by the Tribunal. The allegation of mala fide has been raised by the applicant in the OA while challenging his transfer, pointing out the fact that some of the officers like the respondents no. 4 have been allowed to continue at Bhubaneswar for a longer period than the applicant. It is further stated that the respondents no. 4 was transferred to Agartala in the year 2016, but in 2017 his transfer to Agartala was cancelled and in his place, the applicant was transferred.

6. We are conscious of the fact that as per the judgment of Hon'ble Apex Court in catena of cases, transfer is an incidence of service and a transfer order cannot be interfered by the Tribunal unless it is shown to be violating the rules or it is issued as a measure of punishment or it is mala fide.

7. In view of the above, we are not inclined to interfere with the impugned transfer order dated 20.01.2017 (Annexure-A/2). Taking into account the contention in the OA that the applicant was transferred to Agartala to retain the respondent no.4 at Bhubaneswar, we dispose of this OA with a direction to the respondents/competent authority to consider the options given by the applicant for posting in three places in pursuance to the policy on rotational transfer dated 11.12.2017 (Annexure-A/7) as noted in para 3 above and post the applicant suitably in terms of their own policy guidelines in modification to the impugned transfer order at Annexure-A/2, keeping in view the administrative exigencies. Pending reconsideration of the applicant's transfer as per the policy dated 11.12.2017 as stated above, the applicant will be allowed to continue at his place of posting as on date. The interim order dated 10.3.2017 of the Tribunal stands vacated.

8. The OA is disposed of as above with no order on cost.

(SWARUP KUMAR MISHRA)

MEMBER(J)

(GOKUL CHANDRA PATI)

MEMBER(A)