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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00894/2018

Tuesday, this the 22nd day of January, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

Manoj Kumar Patel,
Assistant Central Intelligence Officer-I/G,
(PIS No.130936), Presently working in Palakkad Unit,
Now residing at 27/340, SIB Complex,
Near Civil Station, Palakkad District,
Pin – 678 001.Applicant

(By Advocate Mr.Manzoor Ali K.A.)

V e r s u s

1. The Union of India
represented by the Secretary,
Government of India,
Ministry of Home Affairs,
North Block, New Delhi – 110 001.

2. The Director,
Intelligence Bureau,
North Block, MHA,
Government of India,
New Delhi – 110 001.

3. The Deputy Director,
Subsidiary Intelligence Bureau (SIB),
Trivandrum, MHA, Govt. of India,
572 Mount Fort House,
Thycaud, Thiruvananthapuram-33.

4. The Joint Deputy Director/E,
Subsidiary Intelligence Bureau,
(MHA) Government of India,
572 Mount Fort House,
Thycaud, Thiruvananthapuram-33.

...Respondents

(By Mr.T.C.Krishna, Sr.PCGC for Respondents)

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This application having been heard on 16th January, 2019 the Tribunal on 22nd January, 2019 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

OA No.894/2018 is filed by Shri Manoj Kumar Patel, Assistant Central Intelligence Officer (ICIO) Subsidiary Intelligence Bureau, currently working at Palakkad Unit, against his transfer to Androth in Lakshadweep Islands. He submits that he has been subjected to very frequent transfers and extreme dislocation and inconvenience has been caused to him and his family by these displacements done without any reason.

2. The applicant joined the Intelligence Bureau on 14.12.2009 and was posted in Arunachal Pradesh after training. He was transferred to SIB, Raipur (Chhattisgarh) and worked there from 2013 to 2016. Thereupon, he was transferred to Bureau of Immigration Unit, Thiruvananthapuram and from there transferred to BIO, Cochin, where he worked from October, 2016 to January, 2017. Thereupon he was moved to Ernakulam Unit where he remained from January, 2017 to February, 2018. Then he was subjected to yet another transfer and moved to Palakkad Unit from March, 2018 till date. Copies of the various transfer orders are provided at Annexure A1, A2 and A3. Now abruptly by impugned order at Annexure A4 dated 13.09.2018 he finds himself transferred to Androth, Lakshadweep.

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3. He had approached this Tribunal by filing OA No.807/2018 and this Tribunal had directed the 3rd respondent to consider his request at Annexure A6. The 3rd respondent without hearing the applicant considered his case and passed order dated 17.10.2018 reiterating transfer to Androth (Annexure A4), stating that due to administrative constraints the applicant's request cannot be entertained.

4. The applicant submits that he has been transferred four times within a short span of 22 months and also without indicating any reason for this unusual step taken against him. He works in the Intelligence Bureau and is only proficient in Hindi and English language and knowledge of local language is important to his sphere of activity. While in Kerala he can manage with the languages he is proficient in, the Lakshadweep Islands are predominantly Malayalam speaking and he has no knowledge of this medium. Thus the case that transfer is being made for administrative reasons is clearly not valid. The type of responsibility which he deals with requires him to work for at least a certain length of time at one place in order to be effective and this cardinal principle has been ignored by the respondents.

5. The applicant has aged parents as well as a wife, who is employed in Chhatisgarh and he has already requested for a posting to Raipur as a part of the General Transfers, which are expected to be published in February-March, 2019. He is likely to be favourably considered for a transfer to his native State

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and yet another transfer to Lakshadweep Island at this juncture is highly inconvenient as well as unnecessary.

6. The respondents have filed a reply statement where the contentions of the applicant have been disputed. While admitting various postings narrated in the OA, it is stated that he had been transferred out of Raipur as a result of a departmental inquiry constituted under Rule 14 of CCS (CCA) Rules, 1965 after which he was awarded a 'Censure'. Subsequently, when he was working in the Bureau of Immigration at Cochin there was a complaint about his performance and he was moved to the Ernakulam Unit. Here also he was accused of misbehaving with a female colleague and it was in the light of this that he was transferred to Palakkad. The transfer to Androth is purely for administrative reasons. Various Annexures at R1, R2 and R3 bear out the issues relating to his services.

7. Shri T.C.Krishna, learned Counsel for the respondents cited the judgments of Hon'ble Supreme Court in **State bank of India Vs. Anjan Sanyal** reported in **2001 KHC 1195**, **Shipi Bose and Others v. State of Bihar and Others** reported in **1991 KHC 837** and **Union of India and Others v. S.L.Abbas** reported in **1993 KHC 986**, wherein it has been laid down that transfer orders should not be ordinarily interfered with by the Courts/Tribunals, where they are made in public interest or for administrative reasons.

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8. We have heard Shri Manzoor Ali K.A., learned Counsel on behalf of the applicant and Shri T.C.Krishna, learned Sr.PCGC for respondents.

9. It is a fact that the applicant has been subjected to a series of transfers of unusual frequency. Even if his performance had been partly responsible by this, it cannot be disputed that the type of responsibility that he is expected to discharge involves developing and maintaining contacts near his place of posting which can only be done over a reasonable length of time. Apart from this, the inconvenience caused to an employee and his family by frequent transfers can also well be imagined. He is now been placed in Palakkad Unit for the last few months and it is stated that he has made a request for transfer back to his native State which will be considered in the general transfers expected to be announced very shortly. We understand that there is no assurance on this account, yet we are of the view that until the general transfer 2019 are announced the applicant may be allowed to continue in Palakkad Unit. We do not discern any particular public interest served by constantly rotating an employee every few months as has happened in this case. OA is allowed to the extent indicated above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00894/2018

1. **Annexure A1** – True copy of the order No.2/Est(T)2016(2)329 dated 01.04.2016.
2. **Annexure A2** – True of the order No.2/Est(T)2016(3)128 dated 09.12.2016.
3. **Annexure A3** – True copy of the Memorandum No.20/EKM/2018/Est-146 dated 28.02.2018.
4. **Annexure A4** – True copy of the order No.2/Est(T)2018(2)II-1413 dated 13.09.2018.
5. **Annexure A5** – True copy of the representation dated nil given to the 3rd respondent.
6. **Annexure A6** – True copy of the order dated 28.09.2018 in OA No.807 of 2018 passed by this Hon'ble Tribunal.
7. **Annexure A7** – True copy of the order No.1/PF(T)/2017(01)-1600 dated 17/10/2018.
8. **Annexure A8** – True copy of the office memorandum F No.28034/2009-Estt(A) issued by the Ministry of Personnel, Public Grievances and Pensions.
9. **Annexure A9** – True copy of the application dated 29.10.2018 submitted by the applicant.
10. **Annexure R1** - True copy of order dated 21.09.2016 from of appellate authority.
11. **Annexure R2** - True copy of the complaint dated 19.02.2018 from Yoobi Rajan.
12. **Annexure R3** - True copy of the complaint dated 26.02.2018 from Yoobi Rajan.
13. **Annexure A10** - True copy of the Review report with respect to 03.10.2016 to 10.01.2017.
14. **Annexure A11** - True copy of the complaint dated 01.03.2018 submitted by the applicant.
