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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00590/2018 and 180/00591/2018

Tuesday, this the 16th day of April , 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN,	...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA,	...JUDICIAL MEMBER

OA NO.180/00590/2018

Shri C.Parameswaran Nair,
Aged 49 years,
S/o Madhava Kurup,
Enforcement Officer,
Office of the Joint Director,
Directorate of Enforcement,
Kochi – 682 011,
Residing at: Flat No.2-A,
ROOTS ENCLAVE, SRM Road,
Kochi – 18.

....Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India,
Represented by the Secretary
to Government of India,
Ministry of Finance,
Department of Revenue,
Directorate of Enforcement,
North Block, New Delhi – 110 001.
2. The Director,
Ministry of Finance,
Directorate of Enforcement,
Head Quarters Office,
6th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi – 110 003.

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3. The Joint Director,
Office of the Joint Director,
Directorate of Enforcement,
Kochi – 682 011.

.....Respondents

(By Mr. M.K.Padmanabhan Nair, ACGSC for Respondents)

OA NO.180/00591/2018

Shri P.Vinod Kumar,
Aged 48 years,
S/o V.K.Ponnappan,
Assistant Director,
Office of the Joint Director,
Directorate of Enforcement,
Kochi-682 011,
Residing at: Flat No.2-E,
Manthra Home, Chilavannoor Road,
Kavavanthara P.O.,
Kochi – 20.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India,
Represented by the Secretary
to Government of India,
Ministry of Finance,
Department of Revenue,
Directorate of Enforcement,
North Block,
New Delhi – 110 001.
2. The Director,
Ministry of Finance,
Directorate of Enforcement,
Head Quarters Office,
6th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi – 110 003.
3. The Joint Director,
Office of the Joint Director,

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Directorate of Enforcement,
Kochi – 682 011.

.....Respondents

(By Advocate Mr.S.Ramesh, ACGSC for Respondents)

This application having been heard on 11th April, 2019, the Tribunal on 16th April, 2019 delivered the following :

ORDER

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

OA Nos.590/2018 and 591/2018 have common issues of facts and law involved. Hence the two OAs are being disposed of through a common order.

2. OA No.590/2018 is filed by Shri C.Parameswaran Nair, Enforcement Officer, Office of Joint Director, Directorate of Enforcement and OA No.591/2018 is filed by Shri P.Vinod Kumar, Assistant Director, Office of the Joint Director, Directorate of Enforcement, Kochi, against common order at Annexure A1 in both OAs by which Shri P.Vinod Kumar, Assistant Director stands transferred to Ranchi and Shri C.Parameswaran Nair, Enforcement Officer is posted to Kolkata. The impugned order is issued on 22.06.2018. On 09.07.2018 when the matter came up for the first time an interim direction was issued to the respondents to allow the applicants to remain in the present post till the next posting date and this order has been continued with till date through subsequent postings.

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3. The relief sought in the OAs are identical and seeks setting aside of Annexure A1 and a direction to the respondents to allow the applicants to continue at Kochi. Shri P.Vinod Kumar in OA No.591/2018 submits that he has been arbitrarily transferred in violation of Transfer Policy issued by the respondents. A copy of the said Policy dated 16.11.2015 is at Annexure A2. He had joined as Assistant Director at his present post on 31.07.2014. He has various personal difficulties such as, his son's education which require his presence at Kochi. The applicant in OA No.590/2018 also has similar personal requirements to remain at his present station as his wife is employed in Kerala Government service as a Teacher in State Government School at Thrissur and his daughter is in final class of CBSE.

4. The grounds adopted are similar. Drawing the attention of the Tribunal to the Transfer Policy, it is maintained that all postings and transfers are to be decided by a duly constituted Civil Service Board and there are no exceptions to these directions. These Boards are required to be constituted at Enforcement Directorate Headquarters in New Delhi and also in five Regional offices of the Directorate. Also officials due for transfers are to be given an option to give three choices of station. These guidelines have been roundly flouted, it is alleged.

5. In a reply statement filed on behalf of the respondents, it is stated that the applicant while seeking quashing of the impugned order had also

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requested for retention in Kochi till March, 2019 and this had been acceded to by the authorities. An officer can only have continuous tenure of three years at the same station and is liable to be transferred on administrative ground after completing the tenure. The applicant in OA No.591/2018 has been continuing at his present station from 2009 onwards whereas the applicant in OA No.590/2018 has been continuing in Kochi since 2014 and that both have completed their tenure at Kochi and are liable to be transferred out.

6. Heard Shri T.C.Govindaswamy, learned Counsel for the applicants and Shri M.K.Padamanabhan Nair on behalf of respondents in OA No.590/2018 and Shri S.Ramesh, learned ACGSC for the respondents in OA No.591/2018. The critical factor which is raised in the OAs by the applicants is that after the decision in **T.S.R.Subramanian v. Union of India AIR 2014 SC 263**, Government Departments and Directorates are required to constitute Civil Service Boards in order to consider and approve transfers and postings. In the respondent organisation itself has a detailed set of guidelines published on 16.11.2015, copy of which is available at Annexure A2. However, no pleadings are seen made in the reply statement that the transfer of the two personnel has been approved by the duly constituted Board, either at Headquarters or at the Regional centre. As per Clause 4.14, there is also a provision for seeking options from the employees in order to minimize dislocation on account of transfers. Clearly these guidelines are seen to

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have not been adhered to. While undeniably both officers have completed their tenure at Kochi and are liable to be transferred out, due procedure as promulgated by the respondent organisation itself ought to have been adhered to. Under the circumstances, we set aside Annexure A1 transfer orders in respect of both OAs. However, there will be no hindrance to process their case as per declared policy and effect transfers with the approval of Civil Service Board. OA is disposed of. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00590/2018

1. **Annexure A1** – True copy of Order (Admn) No.231/2018 dated 22.06.2018 issued by the second respondent.
2. **Annexure A2** - True copy of letter bearing K.No.11022/62/2013-Ad. ED dated 16th Nov.2015, incorporating the transfer guidelines.
3. **Annexure A3** - True copy of representation dated 27.06.2018 addressed to the second respondent.

List of Annexures in O.A. No.180/00591/2018

1. **Annexure A1** - True copy of Order (Admn) No.231/2018 dated 22.06.2018 issued by the second respondent.
 2. **Annexure A2** - True copy of letter bearing K.No.11022/62/2013-Ad. ED dated 16th Nov.2015, incorporating the transfer guidelines.
 3. **Annexure A3** - True copy of representation dated 27.06.2018 addressed to the second respondent.
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