

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No.180/00032/2019
AND
MA No.180/127/2019**

Thursday, this the 28th day of February, 2019

CORAM:

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

Shri Sabu A. John,
S/o A.M.John,
Aged 54 years,
Technical Supervisor,
Central Sliver Plant, Khadi &
Village Industries Commission,
Kuttur PO., Thrissur – 680 013.Applicant

(By Advocate Mr.C.S.G.Nair)

V e r s u s

1. The Chief Executive Officer,
Khadi & Village Industries Commission,
Vile Parle West, Mumbai – 400 056.
2. The Director (Administration),
Khadi & village Industries Commission,
Vile Parle West, Mumbai – 400 056.
3. The Deputy Chief Executive Officer,
Khadi & village Industries Commission,
South Zone, Bengaluru – 560 052.
4. The Project Manager,
Central Sliver Plant, Khadi &
Village Industries Commission,
Kuttur P.O., Thrissur – 680 013.
5. M.Jaganadha Rao,
Project Manager,
Central Sliver Plant,

.2.

Khadi & Village Industries Commission,
Kelagote Industrial Area,
Chitradurga – 577 501 Karnataka State.

6. I Jawahar,
Director (Marketing),
Khadi & Village Industries Commission,
Vile Parle West, Mumbai – 400 056.Respondents

(By Advocate Mr. T.Rajasekharan Nair for Respondents-1to3)

This application having been heard on 19th February, 2019, the Tribunal on 28th February, 2019 delivered the following :

ORDER

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

OA No.32/2019 is filed by Shri Sabu A. John, Technical Supervisor working under the 4th respondent against his transfer from Thrissur to Etah. He seeks setting aside of this order stating that the transfer has been decided on the basis of reasons which are ostensibly arbitrary and is coloured by *mala fide*. The applicant has put in 32 years of service under the respondent organisation. His wife is a Kerala State Government employee at Thrissur. In 2015, as per Annexure A1 order he had been transferred to Etah. Due to valid reasons which he pointed out, the respondents had decided to withdraw the said order (Annexure A4). However, now the impugned order at Annexure A5 has been issued.

2. It is stated in the OA that there are only six Centres under the Khadi and Village Industries Commission in the country. The applicant works in one of

.3.

them, at Thrissur (Kerala) and he was ordered to be transferred to Etah in Uttar Pradesh. It is stated that no employee is transferred from station to station except on request. As his wife cannot be transferred out of Kerala, his transfer to UP is in violation of DOPT guidelines, copy of which is annexed as Annexure A6. Besides there is only one post of Technical Supervisor at Thrissur Plant and no one has been posted in his place. The work at the Plant would suffer if the transfer is carried out.

3. It is alleged that the transfer orders have been coloured by *mala fide*, because the 5th and 6th respondents are ill-disposed towards the applicant on account of a deposition he had made before the Inquiry regarding the illegalities being committed by the 6th respondent. Further, the grading (APAR) given by the 6th respondent was also the result of this ill-feeling.

4. Respondents have filed a reply statement in which the contentions made in the OA have been disputed. It is stated that the respondent organisation has operations, spread at six production Centres and Etah and Thrissur are two of them. The applicant has put in 32 years of service having joined CSP, KVIC, Kuttur in 1986 and for the last 32 years he is continuing in the same station. It was found necessary to transfer him to Etah in 2015 and orders at Annexure A1 had been issued in consequence. However, the said order was kept in abeyance at the request of the applicant. Since there is urgent need of a Technical Supervisor at CSP, Etah, the respondents found it

.4.

fit to revive the transfer order and have issued the impugned order. As mentioned the post the applicant holds All India transfer liability and as per the guidelines issued by CVC, an employee should not be allowed to continue to work at the same place of posting for long. He has been transferred on public interest giving due importance for organisation requirements over personal problems of the employee. These problems narrated by the applicant are also not so serious as to prevent his movement from his present station. Both his children have attained 18 years and wife is also employed as a Village Officer. The applicant himself had drawn a transfer advance of Rs.1.75 lakhs and had agreed to move on posting. Approaching this Tribunal had been an after thought.

5. Shri C.S.G.Nair was heard on the behalf of the applicant and Shri T.Rajasekharan Nair on behalf of the respondents. When the case was heard on 15.01.2019 an interim stay had been issued directing maintenance of *status quo* and the same has been continued. All pleadings and documents were examined including the rejoinder filed by the applicant.

6. Shri C.S.G.Nair, learned Counsel for the applicant assailed the transfer order on the ground of ill-motives and sought retention of the applicant at his present station in view of compelling personal reasons. He further brought a copy of what is stated to be minutes of a meeting held at the office of the respondents wherein it is stated that a Task Committee has been appointed

.5.

to close down the activities of CSP, Etah. This was in order to show that the applicant is being unnecessarily disturbed and being posted at a Centre which is about to down its shutters. Shri Rajasekharan Nair appearing on behalf of the respondents stressed the fact that the transfer, especially in the case of an All India transferable job, is an exigency of service. Applicant has worked at his home town for his entire 32 years of service and this is the first posting to another Centre. From the fact that he sought cancellation of his earlier transfer order to the same centre in 2015 shows that his primary objection is to work in any station other than his home town. The learned Counsel also strongly rebutted the claim that the transfer has been on account of ill-motives. As can be seen from the impugned order the applicant is only one of the five personnel who had been moved. It was maintained by the learned Counsel for the applicant that all allegations of personnel prejudice are concocted in order to avoid the transfer. Further it is not to be taken that his service has been without blemish, as his evidenced from his disputes with various fellow workers, at Annexure A14 and A16.

8. In this context we may usefully refer to the judgments of the Apex Court in the case of ***Mrs. Shilpi Bose v. State of Bihar and Ors***, wherein it has been held :-

“The courts should not interfere with transfer orders which are made in public interest and for administrative reason unless that transfer orders are made in violation of any mandatory statutory rule or on the ground of the malafide. A government servant holding a transferable post has no vested right to remain

.6.

posted at one place or the other, he is liable to be transferred from one place to other. Transfer order issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instruction or orders, the courts ordinarily should not interfere with order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which should not be conducive to public interest”.

9. Under the circumstances, we do not propose to interfere with this OA and the same is dismissed. The *status quo* order issued is hereby vacated. MA No.180/127/2019 is closed. No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

sd

List of Annexures in O.A. No.180/00032/2019

1. **Annexure A1** – True copy of the Order No.Adm.-I/NGR/CSP/KRM/14/2015-16/873 dated 15.06.2015.
2. **Annexure A2** – True copy of the representation dated 01.07.2015 submitted to the 2nd respondent.
3. **Annexure A3** – True copy of the representation dated 07.07.2015.
4. **Annexure A4** – True copy of the Order No.Adm.-I/NGR/CSP/KRM/14/2015-16/ dt.10.7.2015 issued by the 2nd respondent.
5. **Annexure A5** – True copy of the Order No.Adm. I/NGR/CSP/KRM/14/2018-19/ dt.11.01.2019.
6. **Annexure A6** – True copy of the OM No.28034/9/2009 Estt.(A) 30.09.2009 issued by the DOPT.
7. **Annexure A7** - True copy of the letter No.KVIC/MKT/CR/SAJ/2018-19 dt.12.11.2018.
8. **Annexure A8** - True copy of the letter No.KNT:CSP.EST.APAR;2018-19 dt.08.01.2019 issued by the 4th/5th respondent.
9. **Annexure R1** - True copy of the Memo dated 10.08.2017 issued by Project Manager, CSP, Kuttur, Thrissur.
10. **Annexure R1(a)** – True copy of the photocopy of the Memo dated 04.04.2003 issued by Project Manager, CSP, Kuttur, Thrissur.
11. **Annexure R1(b)** – True copy of the Memo dated 22.10.2001 issued by Project Manager, CSP, Kuttur, Thrissur.
12. **Annexure R1(c)** – True copy of the Memo dated 28.03.2000 issued by Project Manager, CSP, Kuttur, Thrissur.
13. **Annexure R1(d)** – True copy of the Memo dated 16.03.1993 issued by Project Manager, CSP, Kuttur, Thrissur.
14. **Annexure R1(e)** – True copy of the Memo dated 14.02.1992 issued by Project Manager, CSP, Kuttur, Thrissur.
15. **Annexure R2** - True copy of the representation dated 14.01.20019 by Sabu John to the Project Manager.

16. **Annexure R2(a)** - True copy of the application cum bill for advance for travelling allowance submitted by Sabu Jobhn dated 14.01.2019.
17. **Annexure R2(b)** - True copy of the Counter foil of SBI after remittance of TA advance to Sabu John.
18. **Annexure A9** - True copy of the report submitted on 28.05.2015.
19. **Annexure A10** – True copy of the report dated 05.08.2015.
20. **Annexure A11** - True copy of the minutes of the meeting held on 30.09.2014.
21. **Annexure A12** - True copy of the Tax Invoice dt.12.2.2016 in respect of one machine.
22. **Annexure A13** - True copy of the Note dt. 03.08.2016.
23. **Annexure A14** - True copy of the complaint dt. 26..5.2017 made to the Project Manager by the applicant against Shri A.Sasikumar MTS.
24. **Annexure A15** - True copy of the reply dated 14.08.2017 issued to the 4th respondent.
25. **Annexure A16** - True copy of the Office Order dated 05.06.2004.
26. **Annexure A17** - True copy of the appreciation letter issued by the Project Manager on 10.09.2005.
