

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00315/2018

Date of Order: This, the 21st day of January 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Sri Sunanda Seal
Son of Late Mahendra Nath Seal
Section Assistant
Resident of Rupkonwar Path
Hengrabari, Guwahati – 36, Assam.

...Applicant

By Advocates: Mr. S. Nath & Mr. G.J. Sharma

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Finance
Department of Financial Services
Jeevan Deep Building
10 Parliament Street, New Delhi – 110001.
2. The Chairperson
Debts Recovery Appellate Tribunal
9 Old Post Office Street, 7th Floor
Kolkata, West Bengal – 700001.
3. Registrar
Debts Recovery Appellate Tribunal
9 Old Post Office Street, 7th Floor
Kolkata, West Bengal – 700001.

4. Registrar
Debts Recovery Tribunal
1st Floor, Apsara Building
Dr. B. Baruah Road, Guwahati – 781007.
5. Shri Manish Seal
Assistant
Debts Recovery Tribunal
1st Floor, Apsara Building
Dr. B. Baruah Road, Guwahati – 781007.

...**Respondents**

By Advocate: Not present

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

Mr. S.K. Ghosh, Addl. CGSC on behalf of respondent Nos. 1 to 4. Though private respondent No. 5 received copy of notice, however, chosen not to appear before the court.

2. At the outset of argument, Mr. S. Nath, learned counsel appearing on behalf of the applicant submitted that similar issue pertaining to relief on the next date has already been criticized and accordingly a common order has been passed by the Co-ordinate Bench of Central Administrative Tribunal, Hyderabad Bench vide order dated 01.01.2019 in O.A.

Nos. 021/747/2018, 021/748/2018, 021/749/2018 and 021/750/2018.

3. Mr. Nath by producing a letter/order No. 1/4/DRAT/Kol/2018(Pt.) dated 16.01.2019 further submitted that the order of CAT, Hyderabad Bench dated 01.01.2019 has been duly complied with by the respondent department. As the issue of the present applicant is similar with the aforesaid applicants i.e. on the next date of transfer, release/relief order was passed, hence learned counsel prays before this Tribunal to pass similar order in the case of the present applicant also.

4. We have gone through the pleadings made in the O.A. as well as common judgment and order of common order dated 01.01.2019 in O.A. Nos. 021/747/2018, 021/748/2018, 021/749/2018 and 021/750/2018 which was allowed by the Division Bench constituted by Hon'ble Mr. Justice L. Narasimha Reddy, Chairman and Hon'ble Mr. B.V. Sudhakar, Member (A). Operative portion of the said common judgment and order dated 01.01.2019 are being reproduced as hereunder:

“16. Rarely one comes across such type of exercises or dictatorial tendencies. Here itself, mention may be made to the transfer guidelines issued by DoPT from time to time concerning transfer. For example, an independent set of guidelines were issued

in OM dated 30.09.2009 prescribing the procedure to be followed where spouses of employees are also employed. Clause IV there of reads as under:

XXXXXX XXX XXX

17. Nothing of this sort was mentioned in the policy framed by Respondent No. 2 nor did he pay attention to the said policy guidelines.
18. In the order of transfer, Respondent No.2 was so unreasonable that straightway he incorporated a clause relieving all the employees mentioned therein. The relevant clause reads as under:

“The above mentioned Assistants stand relieved w.e.f. 31.07.2018 (AN) and directed to report to DRAT, Kolkata/DRTs to which they have been transferred within the stipulated period mentioned against their names for order. No formal relieving order is required to be issued.”
19. It needs to be noted that the transfer policy was communicated on 30th, the order of transfer passed on 31st and the deemed relief from duties is incorporated therein. Almost an emergency like situation is brought about.
20. There may be a scope to infer that the policy and orders of transfer were issued in a hurried manner and the language employed in the clause contained therein are not so happily worded. However, it turns out to be otherwise, if one taking into the account, the language employed by Respondent No.2 in his communication to the applicants or the language employed in the counter affidavit by the respondent in Contempt Petition. For all practical purposes, he defied the interim order passed by this Tribunal in a very objectionable language in the written

communication. The whole exercise reflects an unfortunate set of affairs. It is not known whether the Hon'ble Chairman of DRAT and the superior officials in the Ministry of Finance were aware of the high handed attitude being exhibited by the Registrar in the entire episode.

21. We, therefore, allow the OAs, and set aside the impugned order of transfer, insofar as it concerns the applicants. The applicants shall be continued in the same place where they were working and shall be paid emoluments without any deduction or cut. We make it clear that it shall be open to the respondents to take further steps in the matter after deciding the question as to whether the employees of the respective DRT need to be given an option in the light of unification of the cadres and by applying policy guidelines framed by DoPT."

5. In the present case, applicant was initially appointed as Lower Division Clerk in the Directorate of Geology and Mining on 28.11.1991. Subsequently, he joined as Debts Recovery Tribunal, Guwahati (DRT in short) on deputation on 23.11.1998. Accordingly, he was absorbed permanently in DRT, Guwahati in the month of February 2001 and worked as Court Master. Subsequently, he was promoted to the post of Court Master vide office order dated 18.07.2005. Thereafter, he was promoted to the post of Recovery Inspector vide order dated 23.10.2008 and regularized as Recovery Inspector w.e.f. 23.10.2010 vide order dated 14.03.2011.

6. The grievance of the applicant as prayed for in the present case are as follows:

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer order No. 1/4/DRAT/KOL/2018 dated 31.07.2018 so far the applicant is concerned and the impugned order No. 6/2/DRAT/KOL/2018-Guwahati dated 03.09.2018.
- 8.2 That the Hon'ble Tribunal be pleased to set aside the impugned transfer policy circulated vide letter dated 30.07.2018.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to work as Assistant at Debts Recovery Tribunal, Guwahati till the end of academic session of the son of applicant.
- 8.4 Costs of the application.
- 8.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

7. As the issue has already been decided by Co-ordinate Bench of CAT, Hyderabad Bench, we, accordingly, deem fit and proper to pass similar order. Accordingly, respectfully following the decision of Co-ordinate Bench as narrated above, we allow the O.A. and set aside the impugned order of transfer, in so far as it concerns the

applicant. The applicant shall be continued in the same place where he was working and shall be paid emoluments without any deduction or cut. We make it clear that it shall be open to the respondents to take further steps in the matter after deciding the question as to whether the employees of the respective DRT need to be given an option in the light of unification of the cadres by applying policy guidelines framed by DoPT.

8. There shall be no order as to costs.

(N. NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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