

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/021/858/2017

Dated: 08.03.2019

BETWEEN

G. Yadagiri,
S/o. Late Veeraiah,
Aged about 57 years, Occ: AE (QA),
SQAEL (L), DGQA Complex,
Manovikas Nagar PO,
Secunderabad.
R/o. H.No.29-1502/21 A Kaktiya Nagar,
Neredmet, Secunderabad ó 500 009.

....Applicant

AND

1. The Union of India rep. by its
Secretary,
Ministry of Defence,
Dept. of Defence Production,
Room No.136, South Block,
Nirman Bhavan,
New Delhi ó 110 001.
2. The Director General,
Directorate General of Quality Assurance,
Ministry of Defence (DGQA),
Room No.308-A, G-Block,
Nirman Bhavan,
New Delhi ó 110 011.
3. The Additional Director General Quality Assurance (L),
Head Quarter (DGQA (L-2)),
Nirman Bhavan PO,
New Delhi ó 110 011.
4. The Senior Quality Assurance Officer,
SQAEL (L), DGQA Complex,
Manovikas Nagar,
Secunderabad ó 500 009.
5. The Assistant Quality Assurance Officer,
DGQA Complex, Manovikas Nagar,
Secunderabad.

....Respondents

Counsel for the Applicant : Mrs. Rachna Kumari
Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC

CORAM :

Hon'ble Mr. Justice R. Kantha Rao, Judl. Member
Hon'ble Mrs. Naini Jayaseelan, Admn. Member

ORAL ORDER

(Per Honøble Mr. Justice R. Kantha Rao, Judl. Member)

While the applicant was promoted to the post of Assistant Engineer and was working in Senior Quality Assurance Electronic (L), Secunderabad, he was transferred on rotation by order dated 21.4.2017 to Bangalore. His representation to cancel the said transfer order was not considered. Therefore, he filed OA/21/830/2017 before the Tribunal. The Tribunal did not pass any interim order but disposed of the O.A. by order dated 03.10.2017 directing the respondents to consider the representation submitted by the applicant in accordance with the transfer policy and other rules governing the transfer of the applicant.

2. Heard Smt. K. Rachna Kumari, learned counsel appearing for the applicant and Smt. K. Rajitha, learned Senior Standing Counsel appearing for the respondents.

3. Much reliance has been placed by the applicant in his representation and also in the earlier O.A. on Para 10(a) of the transfer policy dated 10.02.2017 which lays down that the officials having three years or less service for superannuation, will be exempted from rotational transfer. Earlier, it was two years but it was modified to three years under the new policy dated 10.02.2017. However, learned Standing Counsel for the respondents submits

that on the date of the transfer order, the applicant has more than three years of service to retire and, therefore, the transfer order did not offend the transfer policy. However, by now the applicant has only 1 ½ years to attain the age of superannuation. Therefore, we are inclined to dispose of the O.A. having regard to the factum of the applicant reaching the age of superannuation and his medical condition which has been urged as one of the grounds for cancelling the transfer order.

4. For disposal of the O.A., we think it necessary to refer to the judgement of the Mumbai Bench of Central Administrative Tribunal in OA No.215/2013 { S. Bharathi v UOI & Others } wherein it is held as follows:

“The officers having less than two years of service before superannuation are considered for posting as per their choice as far as possible Rule 56 of the CCS (Pension) Rules says that every Head of the Department needs to have a list prepared every six months, who are due to retire within the next 24 to 30 months on that date. A copy of every such list shall be supplied to the Accounts Officer concerned. In 58 of the said Rule, it is provided that every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government servant is due to retire on superannuation, or on that date on which he proceeds to leave preparatory retirement, whichever is earlier. These provisions are incorporated in service rule so as to facilitate the retirement of an officer peacefully and calmly so that he can plan his future accordingly. Unless, there are compelling reasons ordinarily he may not be disturbed or posted to far away place on the verge of retirement. This can be legitimate expectation of an employee, who has served the department for the major part of his life.”

It is further held as follows:

“10. In the instant case, the order of transfer was issued on 09.08.2012 and the applicant was due to retire in January, 2015. But presently, the applicant has less than two years of service prior to his retirement. Very recently, the Principal Bench in Ram Swaroop Meena’s case (Ram Swaroop Meena Vs. Union of India & Another reported in 2013 (2)(CAT) AISLJ 323) has quashed the order of

transfer dated 7.6.2012 on the ground that the applicant was due to retire in July, 2014.”

5. In the instant case, as no interim order was passed cancelling or suspending the order, the applicant joined at the transferred station and has been working there. Now, he has only 1 ½ years to attain the age of superannuation. In view of the judgement relied on by the learned counsel appearing for the applicant which has been referred hereinabove and also having regard to the facts and circumstances of the present case, the respondents are directed to consider the case of the applicant to re-transfer him to Secunderabad or to a nearby station, to facilitate his retirement calmly and peacefully. The respondents are directed to pass necessary orders within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the O.A. is disposed of. No order as to costs.

(NAINI JAYASEELAN)
ADMN. MEMBER

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

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