

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

MA/021/00166/2019 & OA/021/00542/2017

Date of Order : 28 -02-2019

Between :

Siva Mogili S/o Seetahayya,
Aged about 36 years, Occ : AE (QA) in
SQA (L), DEQA Complex,
Manovikas Nagar,
Secunderabad-500009.

....Applicant

AND

1. The Director
DGQA (L), Government of India,
Ministry of Defence (DGQA),
Dte of Quality Assurance (L),
'G' Block, Nirman Bhavan,
New Delhi-110011.

2. The ADGQA (L)
HQ DGQA (L-2)
Government of India,
Ministry of Defence (DGQA),
Dte of Quality Assurance (L),
'G' Block, Nirman Bhavan,
New Delhi-110011.

3. The Senior Quality Assurance Officer
Government of India,
Ministry of Defence (DGQA),
Senior Quality Assurance Establishment (Electronics),
DEQA Complex, Manovikas Nagar Post,
Secunderabad-500009.

...Respondents

Counsel for the Applicant: Mr. N. Nagaraja Kumari

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

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Mrs.V.Geetha, learned counsel appearing for the applicant and Mrs.K.Rajitha, learned Senior Central Govt., Standing Counsel for Respondents.

2. The applicant filed OA challenging the transfer proceedings dated 21.04.2017 seeking a direction to the Respondents to retain him in the present station of Secunderabad or in nearby places as per his choice. An interim order was passed by the Tribunal directing the respondents to maintain status quo in respect of the applicant with regard to the impugned transfer order. Under the said impugned order the applicant has been continuing in Secunderabad as Asst. Engineer, Quality Assurance. Aggrieved by the said interim order, Vacate Stay petition was filed contending that the applicant has been working in Secunderabad since 10 years and he has been rightly transferred in the interest of organisation and sought to vacate the interim order. With the consent of both the learned counsel, we took up the main OA itself for disposal.

3. The transfer of the applicant from Secunderabad to Delhi is rotational transfer. Learned counsel invited our attention to the Transfer Policy and the guidelines, which read as under :-

“4.(vii) Where one spouse is employed under the Central Govt.,

and the other spouse is employed under the state Govt. :-

- The spouse employed under the Central Govt., may apply to the competent authority and the competent authority may post the said officer to the station or if there is no post in that station to the State where the other spouse is posted. “

This clause gives protection in case where one spouse is employed in Central Govt., and another spouse is employed under the State Govt.,. However in the interest of the Organization, the Respondents are at liberty to transfer the employee to any place.

4. According to the applicant, his wife is working in Kurnool District Office and therefore he gave three options , (i) Medak, (ii) Bangalore and (iii) Machilipatnam but he was transferred to Delhi. On the otherhand, learned Senior Standing Counsel for Respondents submits that the applicant did not bring it to the notice of the Respondents that his wife is working in District Supply Office, Kurnool. In any way the applicant indicated three choices but he was not given any of the Stations.

5. Learned counsel appearing for the applicant invited our attention to the guidelines relating to the preference for posting which are as under :

(i) on the basis of seniority-cum-preference;

(ii) list of vacancies and availability of vacancies to be put-up on the website in advance ;

(iii) posting on promotion to be recommended by the Placements Committee and its recommendations should be approved by the Competent Authority.

6. The grievance of the applicant that the junior of the applicant was posted at his choice place of Bangalore but the applicant was not given the

said place. However, it is the contention of the Respondents Counsel that in the matter of transfer, the seniority shall never be the criteria and it depends on the discretion of the Committee and other factors.

7. Having gone through the submissions made on either side, we are of the view that, in view of the availability of vacancies at Bangalore, the Respondents can accommodate the applicant at Bangalore since the transfer is a rotational transfer. Coming to the fact of the transfer guidelines relating to one spouse working in Central Government and other working in State Government, the Respondents are directed to consider the case of the applicant for transferring him to Bangalore or to any place near to the station where the spouse is working subject to availability of vacancies. The transfer order dated 21.04.2017 is set aside in so far as the applicant is concerned.

8. OA is allowed to the extent indicated above.

9. In view of the final disposal of the OA, no orders are necessary in MA. Accordingly the same is closed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(JUSTICE R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 28th February, 2019.
Dictated in Open Court.

