

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A. 350/43/2019

Date of order: 8.1.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member

Pranab Kumar Das,  
 Son of Late Kuntal Kumar Das,  
 Aged about 52 years,  
 Working as Asstt. Administrative Officer  
 in the Office of the ADG(ER)-I,  
 CPWD, Govt. of India,  
 Kolkata – 20;  
 Residing at present at Bhawani Complex,  
 Block-N, Krishnapur, Flat No. 1D,  
 P.S. Baguiati,  
 Kolkata – 700 102  
 and permanently residing at Chandpara, Gaighata,  
 P.S. Dhakuria Kalibari,  
 Dist. 24-Pgs.(N);  
 Pin – 743 246.

..... Applicant.

-Versus-

1. Union of India  
 through the Secretary,  
 Ministry of Urban Development,  
 Nirman Bhawan,  
 New Delhi – 110 011.
2. The Director General,  
 CPWD, Govt. of India,  
 Nirman Bhawan,  
 New Delhi – 110 011.
3. The Deputy Director (Admn)III,  
 Office of the Director General,  
 CPWD, Govt. of India,  
 Nirman Bhawan,  
 New Delhi – 110 011.
4. The Chief Engineer,  
 Eastern Zone-I,  
 CPWD, Govt. of India,  
 5<sup>th</sup> Floor, 1<sup>st</sup> MSO Building, Nizam Palace,  
 234/4, A.J.C. Bose Road,  
 Kolkata – 700 020.
5. The Additional Director General(ER)-I,  
 CPWD, Govt. of India,  
 6<sup>th</sup> Floor, 1<sup>st</sup> MSO Building, Nizam Palace,  
 234/4, A.J.C. Bose Road,  
 Kolkata – 700 020.

.....Respondents.

**For the Applicant : Mr. K. Sarkar, Counsel**

**For the Respondents : Mr. B.B. Chatterjee, Counsel**

**O R D E R (Oral)**

**Ms. Bidisha Banerjee, Judicial Member:**

Heard Ld. Counsel for both parties.

2. The applicant has come up before this Tribunal in the second round of litigation assailing the order dated 3.1.2019, issued pursuant to the directions of this Tribunal in O.A. No. 350/1790/2018 dated 10.12.2018, whereby and whereunder this Tribunal had directed the authorities as under:

"4. Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A., by directing Respondent No. 2 to consider the representation of the applicant, if the same has been filed and is pending before him for consideration, and pass a reasoned and speaking order keeping in mind the rules, regulations as well as all the points raised in the representation within a period of three weeks from the date of receipt of copy of this order. It is made clear that if after such consideration the applicant is found to be entitled to the relief claimed by him then necessary steps be taken within a further period of three weeks therefrom to post him in his present place. I also make it clear that status quo as on date so far as continuance of the applicant in the present place of posting is concerned will be maintained till the period of one week from the date of communication of the order to the applicant. It is further made clear that if in the meantime the said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks.

5. With the aforesaid observation and direction, the O.A. stands disposed of. No costs."

3. Since the speaking order was communicated on 3.1.2019 and the direction was granted by this Tribunal till a period of one week from the date of communication of the order to the applicant, The applicant has not been released from the present place of posting at Kolkata. He challenged the order of transfer on the following grounds:

(i) The speaking order itself shows that the prescribed tenure at Kolkata available to an AAO is of 10 years, and the applicant has completed 9 years at Kolkata.

(ii) Being an Assistant Administrative Officer, there cannot be any administrative exigency to transfer him to the North East Region, which he had already served for 8 years while holding the post of Office Superintendent against the prescribed tenure of 10 years. Therefore, his transfer once again to North East Region is punitive in nature.

(iii) That, persons with longer stay from the present applicant is allowed to be retained in the same station. Therefore, the transfer in the garb of administrative exigencies, has been ordered with a malafide motive.

4. Ld. Counsel for the applicant would strenuously urge for a stay on transfer. Ld. Counsel for the respondents would vociferously object to the same on the ground that transfer is an incidence of service and in view of the celebrated judgment of the Hon'ble Apex Court in *Shilpi Bose* and other matters, the applicant had no right to seek retention at a particular place of posting of his choice.

5. Be that as it may, since a detailed representation after the speaking order was preferred on 4.1.2019 and the same is pending before the Deputy Director (Admin) - III, it would be appropriate in the interest of justice if the authorities are directed to consider the same in accordance with law and issue a reasoned and speaking order within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the applicant accordingly.

6. Ld. Counsel for the applicant also draws my attention to para 5 of the speaking order which says that officers who have completed the maximum stay at a particular station would be shifted out at the time of rotational transfer which is normally issued in the month of April and May every year and the present case is not a case of rotational transfer and, therefore, the applicant has been singled out arbitrarily.

7. Accordingly, it is ordered that the representation dated 4.1.2019 be considered by the competent respondent authority within a period of 4 weeks in

accordance with law. Till such time, the applicant shall not be released from the present place of posting.

8. Ld. Counsel for the applicant also urges that no readiness list has been prepared before ordering transfer to the applicant.

9. With these directions, the O.A. is disposed of. No costs.

(Bidisha Banerjee)  
Judicial Member

SP