

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 554 of 2018

Order Reserved on 10.1.2019

Pronounced on 16th January, 2019

Hon'ble Ms. Jasmine Ahmed, Member-J
Hon'ble Mr. Devendra Chaudhry, Member-A

Gaya Prasad Singh, aged about 50 years, S/o late Tribhuvan Singh, R/o 1/116 Vineet Khand, Gomti Nagar, Lucknow.

.....Applicant

By Advocate: Sri Pushp Raj Singh and Sri Manoj Kumar Shukla

V E R S U S

1. Union of India, through its Secretary, Ministry of Home Affairs, New Delhi.
2. Registrar General of India Census, Government of India, New Delhi.
3. Director Census Operations, Lekhraj Market, Lucknow.
4. Deputy Registrar General (C&T), Directorate of Census Operations, U.P., Lucknow. .

.....Respondents

By Respondents: Sri Rajesh Katiyar

O R D E R

By Ms. Jasmine Ahmed, Member-J

Heard the learned counsel for the applicant as well as learned counsel for the respondents and perused the records.

2. The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 challenging the order dated 27.11.2018 passed by respondent no.4 with a further prayer to direct the respondents to consider the matter of the applicant and thereafter to pass fresh order.

3. In nutshell, the case of the applicant is that the applicant had earlier filed O.A. No. 308 of 2007 assailing the order dated 15.6.2007 whereby the applicant was transferred from the office of DCO, U.P. at Lucknow to the office of DCO, Uttarakhand. The aforesaid O.A. was clubbed with batch of O.As filed by similarly situated employees and

they had been heard together and it was dismissed by a common judgment and order dated 18th October, 2007. Against the aforesaid order of this Tribunal, the applicant filed Writ petition No. 1364 (SB) of 2007 and after exchange of pleadings between the parties and also having heard the parties' counsel, the Writ petition was dismissed vide judgment and order dated 27.4.2017 by observing that the "entire foundation of the petitioner's argument is non-est and misconceived". Thereafter, the applicant filed Review Petition No. 58226 of 2017 before the Hon'ble High Court, which is said to be still pending. It is also averred that during pendency of Writ petition, the applicant preferred a representation to the respondent no.2 on 16.10.2015 for reconsideration of his case upon which the Deputy Director of Census Operations, U.P. issued a letter to the Director for reconsideration of his case. The applicant, after dismissal of Writ petition, preferred another representation to the respondent no.2 for reconsideration of his case on 6.12.2018. When the applicant did not receive any response, he filed another Writ petition No. 36248 of 2018 before the Hon'ble High Court which came to be dismissed vide order dated 14.12.2018 on the ground of alternative remedy. Hence, this O.A.

2. The main ground for challenging the relieving order dated 27.11.2018 pursuant to original transfer order dated 15.6.2007 and order dated 16.11.2018 are that firstly his option has not been considered and secondly senior most persons have not been disturbed; whereas he has been singled out for transfer.

3. From the facts stated hereinabove, it is quite clear that the applicant was transferred alongwith many others vide order dated 15.6.2007 to the office of DCO, Uttarakhand, which he challenged by means of O.A. no. 308 of 2007. The aforesaid O.A. came to be dismissed vide judgment and order dated 18th October, 2007 and the same has been affirmed by Hon'ble High Court vide its judgment and order dated 27.4.2017 by observing that the entire foundation of petitioner's argument is non-est and misconceived, though the Review Petition has been filed by the applicant and the same is still pending.

4. The earlier order of this Tribunal is a very detailed and reasoned order by detailing all the points raised in the O.A. and further it has been upheld by Hon'ble High Court vide its judgment and order dated

27.4.2017 by considering the Section 73 and 74 of Uttar Pradesh Re-organization Act of 2000 by holding that the entire foundation of the petitioner's argument is non-est and misconceived.

5. It is noteworthy to point out that the transfer is an incidence of Government service and no employee has any vested right to continue at a particular station indefinitely. Further, the applicant has All India transfer liability and he be posted where the administrative exigencies are required. On query, the learned counsel for the applicant informs that the applicant since his joining (1994) has been continuing at Lucknow. In the matter of transfer, the scope of judicial intervention is very limited unless and until the transfer order is bad in law violating the rules on the subject or it has been passed with malafide intention and by an incompetent authority or against the guidelines issued therefor. In the instant case, the applicant has failed to point out any irregularity and infirmity in the impugned transfer order and as such it cannot be termed that the transfer order is tainted.

6. In view of what has been stated hereinabove, we do not find any good ground to admit this Original Application and to intervene in the relieving order dated 27.11.2018 issued by the respondents pursuant to transfer order passed long back on 15.6.2007 and as such the same is liable to be dismissed at admission stage without calling the Counter Reply from the respondents. We order accordingly. However, it will be open for the applicant to join at the transferred place and thereafter he may prefer a representation to the respondents ventilating his grievances which may be considered by the respondents in accordance with law on the subject. No costs.

(Devendra Chaudhry)
Member-A

(Ms. Jasmine Ahmed)
Member-J

Girish/-