

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01726/2018

Dated Monday the 31st day of December Two Thousand Eighteen

CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)

R.Sundaramoorthy,
S/o G.Raghavan,
Residing at No. 239, Konnur High Road,
Ayanavaram, Chennai 600023.Applicant

By Advocate M/s. Row & Reddy

Vs

1.Government of India,
Ministry of Home Affairs,
rep by its Joint Director (Establishment),
Intelligence Bureau,
North Block, New Delhi.

2.The Joint Deputy Director/C-4,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi.

3.The Joint Deputy Director (Establishment),
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
Shastry Bhavan, Chennai 600006.Respondents

By Advocate Mr. Su. Srinivasan

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. The applicant has filed this OA seeking the following reliefs :

"i. the Order No. 4/C-4/2018(2)-3205(A) dt. 25.07.2018 transferring him from Subsidiary Intelligence Bureau, Chennai to Subsidiary Intelligence Bureau, Patna passed by the 1st respondent and;

ii. the order No. 4/C-4/2018(2)-3934 dt. 28.08.2018 passed by the 1st respondent reconfirming the order of transfer to Patna and;

iii. the Order No. 7/C-4/2004(305)-5413 dt. 12.12.2018 passed by the 2nd respondent as communicated by the 3rd respondent dt. 17.12.2018 served on 20.12.2018 as being arbitrary, discriminatory and illegal and;

iv. for a consequential direction to the 1st respondent to retain in Chennai/Tamil Nadu due to family circumstances and;

v. to pass such other orders or directions as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, award costs and thus render justice."

2. It is submitted that the applicant was transferred from Chennai to Bangalore by Annexure A1 order dt. 13.03.2018 against which he made a representation pleading that the applicant had less than three years for superannuation and the posting involved learning a new language by the applicant which at his age was difficult. Accordingly, the order was cancelled and Annexure A4 order dt. 07.07.2018 was passed transferring the applicant to Nagapattinam. Even as the applicant was about to move, the posting was reviewed and the applicant was transferred to Patna by an order dt. 25.07.2018.

3. The applicant made Annexure A6 representation dt. 30.07.2018 against the aforesaid order. However, an order dt. 28.08.2018 was passed without reference to his representation stating that the applicant would stand relieved

w.e.f. 15.09.2018. The applicant made a further representation dt. 04.09.2018 (Annexure A8) which was disposed of by an order dt. 12.12.2018 stating that the request of the applicant was duly considered but could not be acceded to by the DIB. Accordingly, he was directed to be relieved w.e.f. 31.12.2018.

4. The grievance of the applicant is that the applicant's representation for retention in Tamil Nadu or posting in a Tamil-speaking area had been rejected allegedly without application of mind as the impugned order failed to indicate the reasons why his request did not find favour with the authorities. Accordingly, the applicant would be satisfied if the respondents are directed to reconsider his Annexures A6 and A8 representations dt. 30.07.2018 & 04.09.2018 in accordance with the relevant rules and transfer policy of the respondents and pass a reasoned and speaking order within a time limit to be set by the Tribunal and the transfer order directed to be held in abeyance till then.

5. Mr. Su. Srinivasan, Senior Central Government Standing Counsel takes notice for the respondents and submits that the applicant is about to be relieved today and he could not file an OA in this manner to pre-empt action on the part of the respondents. However, it is submitted that the respondents would not be averse to passing a reasoned and speaking order, if directed so by this Tribunal.

6. Learned counsel for the applicant would seek a personal hearing for the applicant from the competent authority which, however, is opposed by the standing counsel for the respondents on the ground that there was absolutely no justification for any personal hearing as there is no such provision in the transfer

policy or the rules to consider matters relating to the transfer in consultation with the employee concerned.

7. I have considered the relief sought at the admission stage. Keeping in view the limited role of the Tribunal to interfere in transfer matters and also the fact that the applicant is, at this stage seeking only a proper consideration of his request with due application of mind, I am of the view that this OA could be disposed of with permission to the applicant to submit a detailed representation in lieu of the personal hearing that he seeks within a period of two days from today. The respondents shall consider the same along with Annexures A6 & A8 representations of the applicant in accordance with the transfer policy and in the light of the facts submitted by him and pass a reasoned and speaking order within a period of one week thereafter. The applicant, if not already relieved, shall not be relieved in the meantime.

8. OA is disposed of at the admission stage.

(R. Ramanujam)
Member(A)
31.12.2018

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