

**Central Administrative Tribunal
Madras Bench**

OA 310/00061/2019

Dated Wednesday the 27th day of March Two Thousand Nineteen

P R E S E N T

**Hon'ble Shri. R. Ramanujam, Member (A)
&
Hon'ble Shri. P. Madhavan, Member (J)**

R. Sundaramoorthy
No. 239, Konnur High Road
Ayanavaram, Chennai – 600 023.

... Applicant

By Advocate **M/s. Row & Reddy**

Vs.

1. Government of India
Ministry of Home Affairs
Rep. by its Director
Intelligence Bureau
North Block, New Delhi.

2. The Joint Director (Establishment)
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
Shastri Bhavan, Chennai – 600 006.

... Respondents

By Advocate **Mr. Su. Srinivasan**

ORAL ORDER

Pronounced by Hon'ble Mr. P. Madhavan, Member(J)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“(i) to set aside the order No. 7/C-4/2004(305)-185 dt. 11.01.2019 passed by the 1st respondent in rejecting the representation dt. 04.01.2019, 30.07.2018 and 04.09.2018 communicated by the 3rd respondent dt. 12.01.2019 and

(ii) 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 2nd respondent and;

(iii) the order No. 4/C-4/2018(2)-3934 dt. 28.08.2018 passed by the 2nd respondent re-confirming the order of transfer to Patna and;

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

(v) to pass such other orders or directions”

2. The applicant is working in the Intelligence Bureau as Assistant Central Intelligence Officer and according to him the respondents had transferred the applicant to Patna as per order dated 25.07.2018. According to the applicant he has no knowledge of Hindi which is very essential for Public relationship in his work. According to him the applicant was earlier transferred to Bangalore and on his representation the transfer was cancelled and he was posted at Nagapattinam. Thereafter the respondents had transferred him to Patna and this has created a lot

of hardship to him. The main contention put forward by the counsel is that applicant is not having any knowledge in Hindi and he cannot do his work in Patna. Further the counsel would also submit that one of his son has some psychological problems and is undergoing treatment. Also the applicant is retiring within 2 years and he is in the fag end of his service. He has to conduct marriage of his daughter as early as possible and he is in the process of the same. So he seeks to cancel the order of transfer which is challenged in this case.

3. We have perused the application filed by the applicant and on going through the pleadings we find that the applicant has not succeeded in making out a prima facie case to interfere in the matter. It is already a settled law that transfer of an employee is an incident inherent in the terms of appointment and it is also a condition of service. It is also settled law that no public servant has a legal right to posting in a particular area when a person is holding a transferable post and order of transfer cannot be faulted if it is not against any statutory rules or malafides. Admittedly the post of the applicant has all India transfer liability. The Hon'ble Supreme Court has stated in many cases that the Tribunal should be very cautious in interfering with the transfers as it is the prerogative of the employer to transfer on administrative grounds. It was held in ***Lakshmi Narayan Mehar Vs. UOI (JT 1991 (3) SC 444)*** that Tribunal should not act as an Appellate Authority sitting in judgments over orders of transfer.

4. ***In this particular case the applicant has not alleged any malafides or any other arbitrariness or discrimination done by the respondents in his transfer. So***

there is no reason to interfere with the order of transfer by the respondents in this case. It is the duty of the applicant to show that the transfer order is malafide. In the absence of specific pleadings to that effect in the OA we find that the applicant has not brought out a prima facie case before the Tribunal. In view of the above we find no merit in the **OA and it is summarily dismissed at the threshold itself.**

The applicant will join duty at the place of posting forthwith. No costs.

(P. Madhavan)
Member(J)

.03.2019

(R. Ramanujam)
Member (A)

AS