

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 95 OF 2019

Date Of Decision:- 01st February, 2019

**CORAM: R. VIJAYKUMAR, MEMBER (A).
RAVINDER KAUR, MEMBER (J).**

Shri. Kripa Sagar Das

Age 57 year, Son of Late Gunsagar Das,
Working as Dy. Commissioner of Income Tax,
35(3) Mumbai (Under Transfer), Residing at B
205, New Income Tax Colony
Dindoshi, Goregaon (East), Mumbai 400063.
(Applicant by Advocate Shri. S.V. Marne)

....Applicant

Versus

1. Union of India,

Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110001.

2. The Chairman

Central Board of Direct Taxes,
North Block, New Delhi 110001.

...Respondents

ORDER (ORAL)

PER: R. VIJAYKUMAR, MEMBER (A).

This OA was filed on 31.01.2019 by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"8(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the impugned order dated 04.05.2018 qua the applicant as well as the Order

dated 17th January 2019 with all consequential benefits.

(b) This Hon'ble Tribunal may further be pleased to hold and declare that the applicant is entitled to serve at Mumbai Region till he retires on superannuation on 31.01.2021.

(c) Costs of the application be provided for.

(d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

2. Heard the learned counsel for applicant. The applicant has filed this OA challenging the transfer orders issued by the applicant on 04.05.2018 transferring him from Mumbai to Kochi. These orders were previously challenged by him in OA No.366/2018 wherein he had also sought interim relief. This Tribunal thereupon directed the respondents to pass a reasoned and speaking order on his pending representation dated 06.05.2018 and pending that exercise which should have been carried out within four weeks, the applicant was granted interim relief staying the transfer and further, that if any orders were passed adverse to the applicant, the orders would remain in abeyance for one week thereafter. The respondents have passed the orders on 17.01.2019 which were received and forwarded to the applicant by Mumbai office on 25.01.2019 and

received by the applicant thereafter on 28.01.2019.

3. The learned counsel for applicant argues that these are not reasoned and speaking orders specifically in the context of the directions of this Tribunal. Perusal of these orders shows that the entire representation of the applicant has been taken on record in full detail where he has specified that he is now more than 57 years of age (Superannuation of 31.01.2021). He has also made out certain reasons relating to his diabetes, high blood pressure, departmental proceedings, Court proceedings and his proposed residence after retirement at Mumbai. The respondents in their orders recorded the careful consideration of the Placement Committee and examination of the representation including of its material facts. They have noted that as on 31.12.2017 the officer had completed more than eight years of field posting and therefore, was due for transfer out of Mumbai region which is why he is included in the Mandatory Transfer List (MTL) as part of Annual General Transfer (AGT)- 2018. After discussing the law in this respect they have stated Para 5 as below:-

"5. Whereas, after careful consideration of all the above material facts, judicial pronouncements, administrative exigencies and furtherance of organizational objectives, the committee concluded that the decision of the committee to

transfer Shri. Kripa Sagar Das, ACIT from Mumbai Region to Kerala Region was well within the purview of the Transfer/Placement Guidelines, 2010 and as per the organizational requirement for effective and smooth functioning of the Department.”

4. The learned counsel for applicant argues that the order does not specifically consider the aspect of applicant having become 57 years at the time of transfer in terms of the transfer policy. However, reference to the Para 5 of the orders shows that the Placement Committee has taken into consideration all the material facts and has noted the aspect of administrative exigencies and organizational objectives for supporting their transfer orders. Further, as stated by the applicant, the applicant had not yet crossed 57 years on 31.12.2017 which was the crucial date for Mandatory Transfer List in the Annual General Transfer (AGT)-2018. Therefore, the orders conform to the policy on this principal and presently emphasized ground while other grounds can only be considered as routine and not possessing merits that deserves consideration in judicial review.

5. In these circumstances, both on the aspect of duty of respondents to pass a reasoned and speaking order and on the facts of the case, there is no *prima facie* need to intervene

in these transfer orders by staying them.

6. In the facts and circumstances of the OA, the OA is devoid of merits as we have seen from the contents of the matter and the submissions made and is dismissed at the admission stage while also refusing any orders of any interim stay.

7. Accordingly, the OA is dismissed of without any order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar) 11/2/1
Member (A)

srp

Jw
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