



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 351/00514/2019

Date of order: 5.4.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri G. Nagamaheshwar Rao,
Son of Late G.B. Shetty,
Aged about 59 years,
Permanently residing at 15/6, G.B. Pant Road,
Near Police Headquarters,
Atlanta Point, South Andaman,
Pin - 744 104 and at present posted at
Zilla Parishad, North & Middle Andaman,
Mayabunder as an Executive Engineer under the
Office of Secretary (RD), Andaman & Nicobar
Administration and he is holding the charge of
Executive Engineer/ZP, North & Middle Andaman,
Mayabunder, Diglipur.

Applicant

- VERSUS -

1. Union of India
Service through the Secretary,
Ministry of Urban Development & Employment,
Government of India,
Nirman Bhawan,
New Delhi - 110 011.
2. The Lieutenant Governor,
Andaman & Nicobar Islands,
Raj Niwas,
Port Blair - 744 101.
3. The Andaman & Nicobar Administration,
Service through the Chief Secretary,
Having its office at Secretariat Complex,
Port Blair - 744 101.
4. The Chief Secretary,
Andaman & Nicobar Administration,
Secretariat Complex,
Port Blair - 744 101.
5. The Chief Engineer,
Andaman Public Works Department,
Port Blair - 744 101.

hali

6. The Adhyaksha,
Zilla Parishad,
North & Middle Andaman,
Mayabunder,
Pin – 744 204.
7. The Chief Executive Officer,
Zilla Parishad,
North & Middle Andaman,
Lucknow,
Mayabunder,
Pin – 744 204.
8. The Deputy Commissioner-cum-Election Commissioner,
In the office of the Deputy Commissioner,
Andaman and Nicobar Administration,
Zilla Parishad, North & Middle Andaman,
Lucknow, Mayabunder,
Pin – 744 204.
9. The Secretary (RD),
Andaman and Nicobar Administration,
Office of the Secretary (RD),
A&N Administration,
VIP Road,
Port Blair – 744 101.
10. Shri V. Subbaraj,
Executive Engineer (current duty charge),
PRI, N&MAD-I under
The office of Secretary (RD),
Andaman and Nicobar Administration,
Zilla Parishad, North & Middle Andaman,
Lucknow,
Mayabunder,
Pin – 744 204.
11. Shri Nani Gopal Das,
Assistant Engineer (current duty charge),
SD- Rangat, ZP, N&M
Andaman under the
Office of Secretary (RD),
Andaman & Nicobar Administration,
Zilla Parishad, North & Middle Andaman,
Lucknow,
Mayabunder, Pin – 744 204.

..... Respondents

heli

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : Mr. R. Halder, Counsel
Mr. P.K. Das, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal in the instant Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"(a) To quash and/or set aside the impugned Office Order No. 10 dated 29th March, 2019 wherein the name of the applicant appeared at Serial No. 2 by which your applicant was directed to hand over the charge of Executive Engineer/ZP, N&M and AE, SD- Mayabunder and Diglipur to one Shri V. Subbaraj, EE, PRI, N&MAD-I and Nani Gopal Das, AE, SD- Rangat, ZP, N&M Andaman, the private respondents herein and directed the applicant to report duty as an Executive Engineer in the PRI, SAD-I at Port Blair immediately without serving the said transfer order to the applicant by violation of the direction of office order dated 09.02.2019 of the Election Commission of India and such order has been issued by an incompetent authority and without knowledge of the competent authority because the competent authority of the applicant is Chief Engineer, APWD, Andaman and Nicobar Administration, Port Blair being Annexure A-8 of this original application.

(b) To quash and/or set aside the impugned relieve order No. 83 dated 29th March, 2019 issued by the Chief Executive Officer, Zilla Parishad, North & Middle Andaman, Mayabunder which was issued on the basis of the office order No. 10 dated 29th March, 2019 and without serving the order of transfer, such relief order has been issued which was also not served upon the present applicant and without approval of the competent authority and by violation of notification dated 09.02.2019 issued by the Election Commission of India being Annexure A-9 of this original application which may be liable to be quashed and/or set asides in the eye of law.

(c) To pass an appropriate order directing upon the respondent authority to allow your applicant to continue his duties to the post of Assistant Engineer along with charge of Executive Engineer of Zilla parishad, North & Middle Andaman at Mayander in terms of the Office order No. 663 dated 12th June, 2017 and Office Order No. 179 dated 18th April, 2018 for the interest of public and for the interest of Administration.

(d) To declare that the impugned order of transfer No. 10 dated 29th March, 2019 being Annexure A-8 and the relieve order No. 83 dated 29.3.2019 being Annexure A-9 of this original application is otherwise bad in law and illegal which has been issued by violation of the notification dated 09.02.2019 issued by the Election Commission of India."

2. Heard Ld. Counsel for both sides, examined documents on record. The matter is taken up at the admission stage.

3. The submissions of the applicant, as articulated through his Ld. Counsel, is that the applicant, while holding the post of Junior Engineer in APWD, Port Blair, was promoted and transferred as Assistant Engineer at Mayabunder vide orders dated 23.8.2016 and was thereafter directed to report for duty to Sub-Division,

heli

Diglipur of Zilla Parishad, North & Middle Andaman, Mayabunder. On 12.4.2017, the applicant was directed to look after the charges of Executive Engineer, Chief Accounts Officer and Officer-in-Charge (Administration) of Zilla Parishad, North & Middle Andaman, Mayabunder. That, thereafter, notwithstanding the pendency of the model code of conduct of the Election Commission of India, vide office order dated 29.3.2019, the applicant was directed to hand over his charge of Executive Engineer /ZP, N&M Andaman and AE, SD- Mayabunder and Diglipur to another incumbent and was directed to report for duty as Executive Engineer at Port Blair. As the order was issued during the pendency of model code of conduct and as the same was issued by an incompetent authority, the applicant being aggrieved, has approached this Tribunal.

Ld. Counsel further contends that the applicant could not represent against such transfer order, as the orders of transfer and relieving of the applicant were not served upon him in time. Consequently, the applicant has approached the Tribunal for quashing and/or setting aside the same.

Upon an examination of records, however, it appears that as the applicant has annexed the transfer order at Annexure A-8 to the O.A. and his relieving order at Annexure A-9 to the O.A., the orders are now within his knowledge..

Ld. Counsel for the applicant, therefore, submits that the applicant may be accorded liberty to prefer a comprehensive representation against such transfer and relieving orders to the competent respondent authorities and the respondent authorities may be directed to dispose of the same in a time bound manner.

4. Ld. Counsel for the respondents does not object if such representation is directed to be decided in accordance with law.

5. Accordingly, with the consent of the parties and without entering into the merits of the matter, we accord the applicant liberty to prefer a comprehensive representation within two weeks from the date of receipt of a copy of this order. The competent authority, upon receipt of such representation, shall, within a further period of six weeks thereafter, decide on the representation, as per law

hsh

and as per transfer policy in vogue and communicate the decision to the applicant forthwith. Till such time that the representation is disposed of, the applicant may be allowed to continue with his duties in his present place of posting.

6. Accordingly, with these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP

