

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.1247/2018

MA No.1070/2019

New Delhi, this the 17th day of September, 2019

**Hon'ble Mr. S.N. Terdal, Member(J)
Hon'ble Mr. A.K.Bishnoi, Member (A)**

Mrs. Richa Sheilja
Aged 32 years
W/o Late Shri Amit Kumar Babloo
R/o Qtr. No.212, Type-2
NIT NH-4, Faridabad
Designation: Lower Division Clerk
(Group 'C') ... Applicant

(By Advocate: Shri Anil Mittal)

Versus

1. Union of India
Through its Secretary
Ministry of Water Resources
River Development & Ganga Rejuvenation
423, M/o Water Resources
Shram Shakti Bhawan
Rafi Marg, New Delhi - 110 001.

2. Central Water Commission
Through its Secretary
326(S), Seva Bhavan,
R.K.Puram.

3. Chief Engineer (YBO)
Central Water Commission
Kalinidi Bhavan
B-5 Tara Crescent Road
Qutab Institutional Area
New Delhi -16. ...Respondents

(By Advocate:Shri Rishabh Sahu)

ORDER (ORAL)

Hon'ble Mr. S.N. Terdal, Member (J)

Heard.

2. The following detailed order was passed by this Tribunal on 30.05.2018 while granting the interim relief. The said order is extracted below :-

"M.A 1392/2018 :

Today the M.A is listed for arguments on interim prayer by which counsel for applicant states that the applicant should not be forced to join at Chambal Circle, Jaipur. It is seen that an order was passed by the respondents on 18.12.2017 wherein the applicant was transferred to Chambal Circle, Jaipur with effect from 01.04.2018.

In response to that transfer order dated 18.12.2017 the applicant preferred a detailed representation to the respondents to which the respondents replied vide letter dated 15.02.2018. A bare reading of the letter dated 15.02.2018 reflects that the reply given by the respondents is stigmatic in nature as in the reply they have alleged so many wrong doings of the applicant.

Counsel for applicant has drawn our attention to pages no. 26 to 30 wherein it is seen that the applicant has been graded over all 8 marks out of 10. It is also stated in the ACR that she is very energetic, having good knowledge of calculation, checking of T.A bills, LTC bills, Medical bills. She takes decision quickly. No work has been pending on her seat. Her performance is very good. Even her integrity is beyond doubt.

Learned counsel for applicant also drew our attention to page no. 31 in which vide letter dated 03.03.2017 the applicant is granted Honorarium of Rs.1500/-. In page 33 we have seen same comments about the applicant that she does not keep any work pending at her table. Counsel for applicant also drew our attention to page no. 39 in which it is seen in letter dated 04.10.2017 that name of the applicant figures at Sl. no.3 wherein it is seen that the applicant not only performed the duty but performed overtime duty also.

It is seen that the reply given by the respondents vide their letter dated 15.02.2018 is in contradiction to their own documents. Learned counsel for respondents states that from the reply it is clear that the applicant was not a good worker.

It is surprising that respondents have never felt the necessity of giving a single memo to her in regard to her poor performance, at least nothing is on record. In that event, counsel for applicant also drew our attention to the page no. 44 which are the guidelines of the department for transferring their employees wherein there are certain parameters for transferring group 'B' and group 'C' employees. Counsel for applicant also states that none of these are fulfilled in regard to the applicant. Counsel for applicant on quarry states that the applicant has been relieved but she has not yet joined at Jaipur.

Though in general the transfer orders are not to be interfered but time and again transfer orders have been challenged before various courts for judicial interference and orders have been passed taking into consideration the facts and circumstances of each case.

It is well settled principle of law that transfer cannot be punitive in nature. The reply of the respondents undoubtedly reveals the stigmatic nature. Hence, we fix a date of 17.09.2018 for final hearing of this matter. In the meantime, the respondents are directed not to force the applicant to join the new place of posting and to allow her to join her duty in the present place of posting i.e., Planning Circle, Faridabad.

Thus, the M.A is allowed."

3. The above extracted order has not been challenged by the respondents and has attained finality. For reasoning given in the said order the OA requires to be allowed.
4. Accordingly, the OA is allowed and the impugned order dated 18.12.2007 is set aside with respect to the applicant. No order as to costs.

(A.K.Bishnoi)
Member (A)

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(S.N. Terdal)
Member (J)