

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

**ORIGINAL APPLICATION No.610/2017
This the 18th day of June, 2019**

**CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).**

Rajesh S/oi Vasantrao Wagh
Age: 33 years, Occup Service,
R/o Row House Bnoi.C/2,
Vrundavan Garden, Near Vaibhav,
Laxmi Lawn, Karanjkar Nagar,
Dasak Jail Road, Nashik Road, Nashik
Office Address: Records The Mech.Inf
Regiment, Ahmednagar.

... **Applicant.**

(By Advocate Shri Vicky Nagrani)

VERSUS.

1. The Union of India through Additional, Deputy General Man Power, MP-4 (Civ.B) Adjutant General Branch, I.H.Q. MOD, Ministry of Defence, New Delhi-110066.
2. Chief Record Officer, (Commanding Officer), Records, M.I.R., Ahmednagar-414110.
3. The Administrative Officer for C.O., Records, M.I.R.m Ahmednagar-414110.

... **Respondents**

(By Advocate Ms. J. K. Rehel)

O R D E R

Per: R.N. Singh Member (J)

1. Today when the case was called out, Sh. Vicky Nagrani, learned counsel appeared for the applicant and Ms. J. K. Rehel, learned

counsel appeared for the respondents. Heard them on merit.

2. The applicant has filed this O.A. on 08.09.2017 under Section 19 of Administrative Tribunals Act, 1985 seeking the following relief(s):-

"(a). Call for the entire Record of the case.

(b). After perusal of the impugned order of transfer dated 13-02-2017 at Annexure -6 with reference to the notice dated 16-6-2017, still compliance is made, therefore, respondent no.1 be directed to relieve the applicant from Ahmednagar to Nashik, also the respondent nos.1 and 2 be directed to draw the pay and allowances for the month of July 2017 and be paid to the applicant.

(c). Further direction be given to the Respondent No.2 to act as per the directions made therein as per resolution of Army Head Quarter vide letter No.70538/243/org.4(Civ) (b) dated 17-09-1983 and also vide letter No.15902/MR4(Civ) (b) dated 21-04-2014.

(d). Issue any order of direction which this Hon'ble Tribunal deems fit and adequate in favour of the Applicant in view of the facts and circumstances.

3. The applicant was transferred by the respondent headquarter at New Delhi vide reference no.15984/Feb/2017/MP-4(Civ) (b) dated 13.02.2017 (Annexure A-6) from Ahmednager to Nasik. The applicant was, however, not relieved and he got issued a legal notice to the respondent no.2 for which, he received a reply dated 24.07.2017 (impugned) stating that they had a deficiency of Civil Clerk in the office and therefore, he could not be relieved and that they already addressed the headquarters on the matter and they are awaiting their reply. This OA was filed thereafter on 08.09.2017. Para-6 of the orders of transfer dated 13.02.2017 reads as below:

"6. The individual will be relieved of his duty immediately on receipt of confirmation regarding availability of vacancy from the receiving unit. The move of the individual will not be withheld till the arrival of replacement. The resultant will be reported to this HQ in accordance with AO 22/2001."

4. The simple fact of the matter is that the transfer has been passed with directions to the reviewing authority to relieve the applicant immediately without awaiting the reliever.

However, these orders have not been given effect to and the respondent no.2 requested the respondent no.1 asking for a reply and that has evidently not been received over the last two years.

5. Keeping in view the fact that once the Competent Authority i.e. respondent no.1 has passed the order dated 13.02.2017 with regard to the transfer of the applicant and with directions to the concerned relieving authority to relieve the persons transferred vide such order. It is evident that even after lapse of more than two years the order of the Competent Authority has not been given effect to. In these circumstances, it is necessary that the respondent no.1 passes an final order on this matter giving suitable directions to the respondent no.2 with regard to the relief(s) claimed by the applicant.

6. In view of the aforesaid, the OA stands disposed of with directions to the respondent no.1 to look into the matter and to pass necessary order to ensure the compliance of his

own order dated 13.02.2017 within four weeks from the date of receipt of certified copy of this order and the same shall be communicated to the applicant within two weeks thereafter.

7. There shall be no order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

SD
27/6/17

