

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO. 060/854/2019

Chandigarh, this the 23rd day of August, 2019

...
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

...
Dinesh Singh Yadav son of Sh. Balvir Singh Yadav age 44 years working as Principal Scientific Officer (Non Functional Selection Grade), Directorate General of Quality Assurance (DGQA), Department of Defence Production, Ministry of Defense, O/o SQAE (L & S)(, C/o Ordnance Cable Factory, 183, Industrial Area, Phase-I, Chandigarh 160002 (resident of House No. 1401-A, Sector 19-B, Chandigarh 160019.)

....APPLICANT
(By Applicant in person)

VERSUS

1. Union of India through Secretary, Defence Production, Government of India, Ministry of Defence, Department of Defence Production, Room No. 136, South Block, New Delhi.
2. The Director General Quality Assurance, Directorate General of Quality Assurance, Department of Defence Production, Govt. of India, Ministry of Defence, Room NO. 308-A, D-1 Wing, Sena Bhvan, New Delhi 110011.

....RESPONDENTS
(By Advocate: Shri Sanjay Goyal)

**ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)**

Heard.

2. This matter came up for hearing on 21.8.2019 and after hearing the contentions raised by the applicant the following order was passed:-

“Heard.

Applicant has sought invalidation of the impugned order dated 09.08.2019 (Annexure A-20), whereby he has been transferred in routine from Chandigarh to Bangalore. He contends, inter-alia, that the respondents, without considering his representation to exempt him from routine transfer in view of para 10(c) of the policy dated 24.11.2016, issued the impugned transfer order whereas the transfer orders of other persons seeking exemption on similar ground have been cancelled, therefore, the action of the respondents is discriminatory against him viz.a.viz other similarly placed employees. He has drawn our attention to an O.M. dated 06.06.2014 issued by the Nodal Ministry DOP&T on the subject, to buttress his plea. He further submitted that there is no administrative reason to shift him from Chandigarh.

Applicant has prayed for interim relief that the operation of the impugned transfer order be stayed during the pendency of the O.A.

Issue notice to the respondents.

At this stage, Mr. Sanjay Goyal, Advocate, appears and accepts notice on their behalf.

Considering the fact that as per the impugned order the officers, who have been transferred, are directed to join their new establishment immediately and not later than 09.09.2019, learned counsel for the respondents is directed to have instructions in the matter in view of the pleas made by the applicant, as noticed herein above, before the next date of hearing.

List on 23.08.2019.”

3. Notice was accepted by Mr. Sanjay Goyal, learned Sr. Standing Counsel for UOI and he sought time to file reply to rebut the pleas raised by the applicant for grant of interim stay. But, today, learned counsel submits that he be granted another week's time to file reply, which is strongly opposed by the applicant, who submitted that at any time the respondents may relieve him and it is only an attempt to frustrate his right for grant of interim relief. He submits that the impugned order is patently illegal and against the policy issued by Govt. of India. He submits that his elder son is

suffering from Profound Mental Retardation/Mental illness with 100% disability and is bed ridden in a critical condition and he needs applicant's presence. He is also undergoing Rehabilitation process in GRID, Sector 31, Chandigarh since 2013. He submitted a representation for cancellation of his transfer order taking shelter of provisions of ' Rights of Persons with Disabilities Act, 2016' . He also submitted that his representation against his transfer order has not been decided till date. Thus, he submitted that pending O.A., by an interim measure, the operation of the impugned orders qua him be stayed.

4. The learned counsel for respondents submits that since his representation of the applicant against transfer order is still pending, therefore, he cannot approach this Tribunal without exhausting departmental remedy.

5. Considering the fact that the applicant has challenged the impugned orders of transfer on various grounds, including violation of Rights of Persons with Disability Act, 2016, as his son is bed ridden and also in violation of Articles 14 & 16 of the Constitution of India, and his indicated representation is still pending consideration, we deem it appropriate to dispose of this Original Application by directing the Competent Authority amongst the respondents to consider and decide his pending representation in accordance with law by passing a reasoned and speaking order within a period of 15 days from the date of receipt of a certified

copy of this order. The order so passed be duly communicated to the applicant.

6. Till then, the operation of the impugned orders will remain stayed and if the respondents pass any adverse orders against the applicant, the same will also remain stayed for further two weeks, so that he can approach the Court of law, if so advised, in accordance with law. The O.A. stands disposed of accordingly. No costs.

(A.K. BISHNOI)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 23.08.2019
`SK'



