

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

RA No. 15 of 2019
(OA No. 925 of 2016)

Present: Hon'ble Mr.Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Ghanashyam Dhal, aged about 58 years, S/o Late Bhaskar Chandra Dhal, resident of Sunarui, PO-B.Katisahi, PS – Baliapal, Dist.- Balasore, Odisha at present serving as Joint Dy.Director, Subsidiary Intelligence Bureau (SIB), Govt. of India, Cuttack, at Deulasahi, PO-Tulasipur, Cuttack-8, Odisha.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary, Ministry of Home, Government of India, New Delhi, Pin – 110001.
2. Director of Intelligence (IB), North Block, New Delhi, Pin – 110001.
3. Joint Director, Subsidiary Intelligence Bureau (SIB), Vidyut Marg, Unit-V, Bhubaneswar, Dist-Khordha, Pin- 751001.

.....Respondents.

For the applicant : Mr.M.K.Khuntia, counsel

For the respondents: Mr. S. Behera, counsel

Heard & reserved on : 7.8.2019 Order on : 29.8.2019

ORDER

Per Mr.Gokul Chandra Pati, Member (A)

The Review Application (in short RA) is directed against the order dated 14.11.2017 of this Tribunal (Annexure-A/1 of the RA) passed in OA No. 925 of 2016, dismissing the OA. The applicant had challenged the said order before Hon'ble High Court in W.P. (C) No. 24453/2017, which was disposed of vide order dated 20.3.2019 (Annexure-A/2 of the RA) giving liberty to the applicant to file this Review Application since some of the points raised in the written note of submissions and argued before the Tribunal have not been considered. Thereafter, this RA has been filed.

2. The grounds urged in the RA are as under:-

(i) The applicant, being an officer of the rank of the Joint Deputy Director, was transferred to Bolangir vide the order dated 16.9.2016 which was impugned in the OA, although there was no post of Joint Deputy Director at Bolangir. The post of Deputy Central Intelligence Officer (in short DCIO) at Bolangir is with the Grade Pay of Rs. 5400/- where as the post of Joint Deputy Director carries the Grade Pay of Rs. 7600/-. Hence, it amounts to demotion of the applicant.

3. In their short Reply to the RA, the respondents have stated as under:-

"7. The respondents would also like to state that in compliance of the observation of the High Court of Orissa in its order dated 20.3.2019, the respondent relieved the applicant with effect from 5.4.2019 with the direction to report for duty at Bolangir (his new place of posting). But, till date he avoided to receive the order and not joined duty at his new place of posting. The applicant has disobeyed the observation of the Hon'ble Court by not joining duty at Bolangir.

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9.This is to state for the kind information of the Hon'ble Tribunal that prior to the posting order of Shri G.S.Dhal, JDD/Exe (applicant) to Bolangir, the Unit office at Bolangir, was headed by a DCIO/Exe. It is pertinent to mention that both the posts (DCIO/Exe and JDD/Exe) are Group 'A' posts in Intelligence Bureau and officers holding either post can be posted at various offices/units under Intelligence Bureau as per the administrative exigencies and operational requirements of the Bureau. The contention of the applicant that his posting to a Unit, where a DCIO-level officer was functioning earlier is a 'demotion' in rank is not true. It is added for the kind information of the Tribunal that transfers/postings in Intelligence Bureau is a routine matter and orders are issued regularly in this regard only after consideration of the requirements/demands of a particular Unit at particular situation. At the time of the issuing of the order relating to his transfer in question, various aspects (like suitability to run the unit office, length of service, past experience, tenure at a particular place etc.) were also taken into consideration. In other words, postings of officials in different ranks are decided and ordered in view of practical requirements on the ground, and not strictly in accordance with the available vacancy in a particular rank at a particular Unit subject to the availability of vacancies in a particular rank on the overall sanctioned strength of SIB Bhubaneswar as a whole. The same principle was adopted in the instant posting of the applicant. To prove this point with a concrete example, it may be pointed out that the applicant himself has been posted at Cuttack Unit that was earlier headed by officers of the rank of DCIO/AD(Exe) who are junior in rank than the rank of the applicant i.e. JDD. Earlier thereto also, the applicant himself was posted at SIB Unit, Balasore as Assistant Director, which used to be headed in the past by a DCIO-rank officer/which is lower in rank than an Assistant Director. Notably, the applicant had not raised this issue of his so-called demotion on those occasions. Moreover, it is unreasonable and a tendentious misrepresentation of facts to call a transfer as 'demotion' simply on the grounds that an officer has been transferred from a larger city to a smaller one, or from one region/part of the state to another region/part. The proposed transfer of the applicant does not entail any change in his rank/responsibility or reduction in his status/pay and allowances. Therefore, the question of 'demotion' is irrelevant here."

4. It is noticed that the only ground advanced in the Review Application is that the impugned transfer order implied demotion of the applicant, has not been considered in the order dated 14.11.2017 of this Tribunal. It is seen that the only ground based on which the applicant has termed the impugned transfer order as an order of demotion, is that there is no post of Joint Deputy Director at Bolangir and hence, the applicant, being an officer of the level of the Joint Deputy Director, should not have been posted at Bolangir. It is stated in the Reply of the respondents that the officers are posted at a particular station within SIB Bhubaneswar as per the overall requirement in the field within the overall sanctioned number of posts available with the SIB Bhubaneswar. In other words, the posts can be deployed with the officers on transfer depending on his rank subject to overall sanctioned strength of the

SIB Bhubaneswar. Nothing has been produced by the applicant in the OA to prove his contention that the impugned transfer order was in fact a demotion since the impugned order has not specified the pay scale and rank of the applicant after joining at Bolangir and no order has been passed by the respondents regarding scale of pay and the rank the applicant after joining at Bolangir.

5. Taking into consideration the materials available on record before us, it cannot be concluded that the impugned transfer order implied demotion of the applicant if he joins at Bolangir. Hence, we are of the considered view that the ground advanced by the applicant in the Review Application does not constitute a valid ground under law to justify any review of the order dated 14.11.2017 (Annexure- A/1 of the RA) passed by this Tribunal in the OA No. 925/2016 and hence, the Review Application is without any merit.

6. In the circumstances as discussed above, the Review Application is dismissed. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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