

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 368 of 2016

Order dated: 29.02.2016

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. P.K. Basu, Administrative Member

ASHOK KUMAR DAS

Versus

UNION OF INDIA & ORS. (Defence)

For the Applicant : Mr. A. Mukherjee, Counsel
Mr. B. Ghosh, Counsel
Mr. A. Chatterjee, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

ORDERPer Ms. Bidisha Banerjee, Judicial Member:

Heard Ld. Counsels for both the parties.

2. The applicant would seem to be aggrieved in regard to his transfer order dated 8th August, 2015 issued from the HQ. Eastern Command whereby and whereunder he has been transferred from GE(A) Kolkata (Alipore) to HQ. CE Kolkata Zone "in the interest of State" on Local Turn Over (LTO in short). He has sought for quashing thereof.

3. During the course of hearing the Ld. Counsel for the applicant would vociferously allege that the transfer has been effected in violation of the transfer guidelines/ policy of the respondents floated on 25.4.11 which envisage the following:

"POSTING ON LOCAL TURN OVER (LTO)"

40. To avoid indulgence of employees in undesirable activities, to prevent any undue benefit and to provide equal opportunity of training and experience to all, regular turn over from sensitive to non sensitive and vice versa will be carried out for those employees who have completed three years service in a seat. LTO may also be resorted to for rationalizing the staff so as to neutralize the imbalance caused by TTP and CML postings. The timeline as per Para 4 of this policy will be strictly followed."

Citing the aforesaid he would argue that tenure being three years in a seat and the applicant being brought to GE (A) Kolkata only on 29.3.14 should be allowed to complete his tenure of three years at the place seat.

4. Per contra Ld: Counsel for the respondents would dispel the claim drawing our attention to a Posting Policy of the DG (Pers), MES issued on 31.3.15 which stipulate the following:

"(a) **Para 40:** The following categories of posts/appointment shall be identified as sensitive appointment:-

XXX

(ii) JE (E/M) employed on executive appointments

XXX

(iii) Tenure of individuals on sensitive appointment in a station shall not exceed six years. Individual on sensitive appointment shall not be allowed to stay more than 3 years in a unit/ formation.

(d) **Para 42:**

(i) No Gp 'B' (NG) employee shall spend more than 3 year in a unit and not more than 6 years continuously in a complex, in a sensitive appointment. On completion of 6 years in a sensitive appointment, the employee shall be posted to a different complex in case of a sensitive appointment with the provision that he / she shall be considered for repatriation after three/ two years to any of the three choice stations including the previous station subject to availability of a vacancy. In case a non-sensitive appointment is available in the same station, he / she can also be accommodated in that appointment subject to priority of adjustment of employee coming back on repatriation."

Citing the aforesaid Ld. Counsel would submit that the applicant vide the transfer order has been transferred from a sensitive post to a non-sensitive post and having joined GE (South) Kolkata, against a sensitive appointment, on 7.7.09 he had already completed 6 years of prescribed tenure against a sensitive appointment. Therefore he could be transferred to a different complex and against a non-sensitive appointment. As such there was no infirmity or violation of any transfer policy in ordering such transfer on 29.3.14.

5. We have considered the rival contentions. Having allowed to complete 6 years in a sensitive appointment we found no infirmity with the present transfer, in view of such,

and as no apparent difficulties would be faced in carrying out the transfer which is within Kolkata Zone we do not find any reason to interfere with the transfer order.

6. O.A. is therefore dismissed. No costs.

(P. N. Basu)
Member (A)

drh

(Bidisha Banerjee)
Member, (J)