

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. OA 350/00023/2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

ZIA MAJEED

VS

UNION OF INDIA

For the applicant : Mr.S.K.Dutta, counsel
Mr.B.Chatterjee, counsel
Mr.B.Karan, counsel

For the respondents : Mr.M.K.Bandyopadhyay, counsel

Order on : 8.3.16.

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. The applicant in this OA, an officer of Quality Assurance, has assailed a transfer order dated 3.12.15 whereby and whereunder he has been transferred from Kolkata to Bhilai. The transfer order has been challenged on the following grounds :

- (i) For that acts or omission on the part of the respondents are improper, illegal and unjustified in frequently transferring the applicant from one place to another.
- (ii) For that the activities of the respondents are grossly violative of the provisions of Article 14 of the Constitution of India corresponding to the violation of Principles of Natural Justice.
- (iii) For that the respondents have grossly violated the provision of Central Services Rules in connection with the provisions of employment wherein an investigation by the CBI authority is pending.

3. The sum and substance of the contention of the applicant would be that he was purposely transferred out of Kolkata to deter him being a witness in a criminal case lodged against Shri R.L.Prasad, Executive Director, QA, RITES Ltd., Head Quarters, Gurgaon, the Joint Geneal Manager, QA, Kolkata Shri

Dhirendra Kumar Sinha, Shri Alokesha Mondal, Manager (M&C), RITES Ltd., Kolkata and the directors of M/s Riddhi Siddhi Udyog Pvt. Ltd. His transfer is an outcome of a conspiracy hatched out by the Directors of the said company, since the applicant did not yield to their pressure of not being a prosecution witness.

4. Ld. Counsel for the respondents specifically pleaded during the course of hearing that the applicant figured in a secret list i.e. a list of officers of doubtful integrity (ODI) dated 24.11.14 and that was a reason for transferring him to Bhilai. During the course of hearing on the earlier occasion, Ld. Counsel was directed to take instruction whether all the persons who had figured in the secret list were transferred. Ld. Counsel submitted that all such persons have been transferred.

5. At this juncture Ld. Counsel for the applicant would further canvass that one Pinaki Mazumdar although he figured in the ODI list was brought back to his normal position. Drawing my attention to the list of persons who have been transferred for having been figured in the doubtful/secret list, Ld. Counsel for the applicant would point out that one S.K.Rai who was ordered to be transferred was retained at Delhi and later on brought in the place of the present applicant. Ld. Counsel vociferously submitted that where both S.K.Rai and the applicant figured in the secret list the reason is not apparent what prompted the authorities to bring S.K.Rai in place of the present applicant, when the present applicant was transferred out of the said place on the ground that he has figured in the secret list and he should not hold such sensitive post.

6. The respondents disclosed that the reason for transferring the applicant to Bhilai was also that he should not manage to come back to Kolkata and at Bhilai his working would relate to inspection at SAIL, a PSU and which did not involve private vendors.

7. Further the respondents placed OM dated 28.10.69 issued by the Ministry of Home Affairs, Govt. Of India which specifically provide that "when

the name of an officer has been entered in the list for good and adequate reasons it will not be removed until a period of three years have elapsed". The said instruction also provides that secret lists are to be maintained to keep Ministries/Departments/Undertakings concerned informed about the officers of doubtful integrity to ensure that they are not posted to 'sensitive' assignments and to help the Ministry to know about the officers whose work and conduct need both special attention and closer supervisory scrutiny. The course of action that was required to be followed, after placing the officer in such list, was his transfer from a 'sensitive' post. Therefore ld. Counsel for the respondents would argue that there was no infirmity in the respondents' action in transferring the applicant out of his present place of posting for having figured in the secret list i.e. a list of officers with doubtful integrity.

8. Ld. Counsel for the applicant would vociferously submit that the applicant was already transferred out of Kolkata to Durgapur on 10.3.14 i.e. after he figured in the said list. Therefore further transfer to Bhilai after bringing him back from Durgapur to Kolkata on 29.4.15, was against the guidelines of the department.

9. I have heard ld. Counsels for the parties and perused the materials on record and considered the guidelines.

10. In view of the fact that the applicant figured in the list of officers with doubtful integrity or a secret list prepared by the Vigilance, The decision of transferring the applicant out of Kolkata could not be faulted with and therefore it should not be interfered with. However, if the applicant has made a specific complaint that one S.K.Rai who had also figured in the secret list along with him has been favoured being posted in place of the present applicant, and one officer has been retained at the same place, the said prayer of the applicant seeking identical treatment ought to be disposed of by the respondent authorities.

11. Accordingly I would direct the Chairman cum Managing Director, Rites Ltd. to consider and dispose of the pending representation of the applicant that he preferred on 20.12.15, within one month from the date of the communication of this order and pass a reasoned and speaking order on the same.

12. Accordingly the OA stands disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (A)

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