

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. OA 350/00098/2016

Date of order : 18.1.2016

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

GOBINDA DAS

VS

UNION OF INDIA & ORS. (TEXTILES)

For the applicant : Mr.D.N.Maiti, counsel

For the respondents : Mr.P.Sharma, counsel

O R D E R

This is the second journey of the applicant to this Tribunal assailing a speaking order issued on 4.1.16, in terms of the order dated 23.11.15 in OA 1752/15 whereby and whereunder the applicant's prayer seeking retention at the present place of posting at Kolkata has been turned down citing the aforesaid :

"In this regard, it is pertinent to mention here that owing to suffering of his son from acute psychiatric problem as well as multifarious disease, the department issued the order No. 22011/01/2013- Admn./709 dated 11.6.2014 posting the applicant from M&SEC, Siliguri to ERO, Kolkata on humanitarian grounds, where he remained posted upto 24.9.15. Thus, it is clearly evident that the department had accommodated the applicant at ERO, Kolkata for about 14 months to take care of his ailing son, prior to his present posting to NERO, Guwahati.

However, as there is huge shortage of staff in various grades in the organisation including the cadre of HPO, out of the sanctioned strength of 182 HPOs, about 112 HPOs are in position. IN order to ensure smooth functioning of the activities of the office, it is imperative on the part of the Government to see that the staff is posted in such a way that its services are utilised optimally."

It is the specific case of the applicant that he is about to retire in the current year on superannuation and his son is suffering from psychological problems as well as multifarious diseases.

2. It is noticed that in the earlier round the following order was passed :

"It is further noticed from the speaking order, that owing to sufferance of his son from acute psychiatric problems as well as multifarious disease, the department issued order no. 22011/01/2013- Admn./709 dated 11.6.2014 posting the applicant from M&SEC, Siliguri to ERO, Kolkata on humanitarian grounds, where he remained posted

upto 24.9.15.. Therefore, the department being well aware of his son's illness accommodated the applicant at ERO, Kolkata for about 14 months to take care of his ailing son. The reason for not accommodating him for a few months more seemed arbitrary and is not apparent. It is not the case of the respondents that the applicant's son has already recovered from his illness.

It further appeared that the applicant is due to retire shortly and logically he would need to settle down peacefully after his retirement. Such transfer to a far away place at the fag end of his service career may delay or hamper preparation of his pension papers and should be avoided.

The transfer order clearly manifest that one Sudarshan Das is being transferred to Kolkata 'on request' which may be a reason to dislocate the applicant.

In such view of the matter the respondents are directed to consider retention of applicant at his present place of posting till he attains superannuation.

Let appropriate order be issued within one month.

Till such time the applicant shall not be compelled to join the transferred post.

OA is accordingly disposed of. No costs."

3. The speaking order which is under challenge in the present OA does not show any specific reason why the applicant would be shifted from the present place of posting with only a few months to go on superannuation. It is noticed that in the case of one Dr. K.C.Chakravarty -vs- Secretary, Ministry of Steel & Mines, Bangalore Bench of this Tribunal by its order dated 8.8.14 declared that transfer of an employee at the fag end of his service with less than a year of his retirement is impermissible unless the transfer was necessitated due to his promotion. It is also not understood as to what purpose would be served in transferring the applicant at the fag end of his service career to a far away place, when he was not dislocated for several years and was already granted posting to Kolkata to enable him to take care of his ailing son i.e. being totally aware of the prevailing circumstances when he sought for such transfer. It was already observed in the earlier roundthat the reason for not accommodating him for a few months more seemed arbitrary and was not apparent.

It is further noticed that there is no denial of the fact that the son is suffering from mental illness since November 2013 and that he needs constant supervision, support and empathy from parents and his family members, yet the respondents have not considered the medical condition of his son while issuing speaking order.

5. Therefore the speaking order, being not in accordance with the directions earlier passed and being bereft of any justification for transfer at the fag end of service is quashed and the respondents are directed to allow the applicant to resume his duties at the present place of posting and to continue him as such till his superannuation.

6. The OA is accordingly allowed. No order is passed as to costs.

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(BIDISHA BANERJEE)
MEMBER (J)

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