

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH :: AT HYDERABAD**

OA/021/0111/2021

**Reserved on: 18.10.2022
Pronounced on: 04.11.2022**

Hon'ble Mr. Sudhi Ranjan Mishra, Judicial Member



Narottam Pradhan, S/o. K.C. Pradhan,
Aged about 49 years, Working as
Technical Officer-B, ICMR-NIN,
Jamai-Osmania PO, Hyderabad – 500 007,
R/o. Flat No. 202, Sri Balaji Nivas,
Saingar, Kushaiguda, Hyderabad.

.....Applicant

(By Advocate: Mr. T.P. Acharya)

Vs.

1. The union of India, Rep by its Director General,
Indian Council of Medical Research,
V.Ramalingaswamy Bhavan,
Ansari Nagar, New Delhi – 110 029.
2. National Institute of Nutrition,
Indian Council of Medical Research,
Jamai-Osmania PO, Hyderabad – 500 007,
Represented by its Director.
3. National Animal Resource Facility for
Biomedical Research (NARF-BR),
At Biotech Park, Genome Valley,
Turkapalli, Kolthur Post, Shamirpet,
Hyderabad – 500 101, Rep. by its Director.

....Respondents

(By Advocate: Mrs. K. Ajay Kumar, Proxy Counsel for
Mr. B.N. Sharma, SC for ICMR)

ORDER
(As per Mr. Sudhi Ranjan Mishra, Judicial Member)



The applicant filed the OA challenging the Office Order dt. 03.02.2021 issued by the 1st respondent transferring him from 2nd respondent Institute to 3rd respondent Institute and also the consequential Relieving Order dt. 09.02.2021 w.e.f. 10.02.2021.

2. Facts of the case, in brief, are as follows:

The applicant was appointed in National Institute of Nutrition, Hyderabad (for short NIN), the 2nd respondent and he is now working as Technical Officer-B. While so, National Animal Resource Facility for Biomedical Research Authority (NARF-BR), the 3rd respondent, was created at Biotech Park, Genome Valley, Turkapalli, Hyderabad, the 3rd respondent, under the control of 1st respondent ICMR w.e.f. 03.12.2015. Thereafter, the NCLAS, a project under the 2nd respondent has been merged with NARF-BR and 37 employees of NCLAS were transferred to NIN and 11 employees working in NIN were transferred to NARF-BR vide order dt. 29.08.2018. Out of the 11 employees transferred from NIN, only 3 reported at NARF-BR and the remaining 7 are at still in NIN while one employee retired. The applicant was tested COVID positive in January 2021 and he was on leave till 06.02.2021. On 09.02.2021, he was served with the transfer order dt. 03.02.2021 transferring him to 3rd respondent institute and a relieving order was also issued on 09.02.2021.

3. The applicant contends that as seen from the transfer order, though he is a technical person, his services are also sought to be utilized in

Administration as per his qualification. The other employees who were earlier transferred vide order dt. 29.08.2018 are allowed to continue in 2nd respondent Institute whereas he is transferred, which is arbitrary and discriminatory. His son is studying 6th class and his wife is also employed in Hyderabad and therefore, they would be put to great difficulty. Further, the new place of posting is about 70 kms away from the present place of working, which may force him to live separately leaving his son and wife at Hyderabad.



4. The respondents filed a reply affidavit stating that the applicant was appointed as Technician on 11.01.2002 in NIN and went on to become Technical Officer-B on 01.04.2017 on successive promotions. The reasons for transferring the staff from one Institute to another Institute are given vide ICMR letter dt. 03.02.2021, as per which, there is a serious shortage of administrative staff in the Institutions/ Centres & HQrs. Transfer of trained regular staff among the Institutes is necessary to fill up the gap on functional requirement and in public interest. It was also decided that some of the technical cadre personnel would be utilized in for specific Administrative, Finance & Accounts works in addition to their normal duties, based on this qualifications. Accordingly, the applicant was transferred from NIN to NARF-BR. The distance from the residence of the applicant and the 3rd respondent Institute is only 20 Kms.

5. It is further stated by the applicant was relieved on 10.02.2021 and he filed this OA on 12.02.2021. Interim order was declined on 19.02.2021.

Thereafter, he joined at the 3rd respondent institute on 22.02.2021. Therefore, the OA has become infructuous. Six other employees were transferred apart from the applicant and they joined the 3rd respondent Institute.



6. The respondents cited the order of the Hon'ble High Court of Punjab & Haryana dt.05.02.2021 in CWP No. 7857 of 2020 to assert that the transfer is an incident of service and no Govt. servant has a vested right to remain posted at a place of his choice nor can an employee dictate terms for posting as per his choice. That the employer is vested with power to exercise powers as per administrative exigencies keeping in view the public interest. They also cited orders passed by the Hon'ble Ahmedabad Bench of this Tribunal dt. 03.03.2021 dismissing OA No. 108/2021 & batch filed by the similarly placed employees of another institute of ICMR i.e. ICMR-NIOH, Ahmedabad challenging the transfers orders by relying on judgments of the Hon'ble Supreme Court.

7. Heard the learned counsel for the applicant and learned counsel appearing for the respondents and perused the material on record.

8. The point that arises for consideration is whether the transfer of the applicant from the 2nd respondent Institute to 3rd respondent Institute is sustainable in law.

9. The applicant challenges the transfer mainly on the ground that the new place of posting is about 70 km distance from the present place, which is disputed by the respondents stating that the distance is only about 20 KM from his residence, for which there is no rebuttal from the applicant.



Therefore, the plea of the applicant regarding his son's education and his wife being employed in Hyderabad would not have much significance since the new place of posting is within 20 KM distance and it would not cause any dislocation of the family from the present arrangement. Further contention of the applicant is that though he is from technical cadre, he is posted to 3rd respondent and his services are sought to be utilized in administration and finance/ accounts. In this context, it is stated in the impugned order that in view of the shortage of staff, transfer of trained regular staff among the Institutes is necessary to fill up the gap based on functional requirement and public interest. As can be seen from the impugned order, based on the educational qualifications, some of the technical personnel will be utilized for specific administrative and finance & accounts works, in addition to their normal duties. It is for the respondents to utilize the services of the employees suitably in administrative exigencies and public interest, taking the experience and academic qualifications into consideration.

10. Law is well settled that the employee has no vested right to remain posted at a particular place or of his choice. In ***Rajendra Singh vs State of U.P. & Ors, (2009) 15 SCC 178***, the Hon'ble Supreme Court held as under:

"5. A Government Servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is

liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government Servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires [see [State of U.P. v. Gobardhan Lal](#); (2004) 11 SCC 402].

6. The courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides. In the case of [Shilpi Bose \(Mrs.\) & Ors. v. State of Bihar & Ors.](#), AIR 1991 SC 532, this Court held :



"4. In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."

Recently, the Hon'ble Supreme Court in **SK Nausad Rahaman & Ors.**

v. Union of India & Ors, in Civil Appeal No. 1243 of 2022, vide judgment

dt. March 10, 2022, reported in 2022 (4) SCALE 626 has held as under:

"24 xxxx Whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. An employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of their choice.

25 Second, executive instructions and administrative directions concerning transfers and postings do not confer an indefeasible right to claim a transfer or posting. Individual convenience of persons who are employed in the service is subject to the overarching needs of the administration."

Furthermore, the applicant also complied with transfer order and joined the new place of posting on 22.02.2021, though this fact has not weighed on this Tribunal in any manner for adjudication of this OA.

11. In view of the above facts and circumstances, this Tribunal is of the view that the OA is devoid of merit and the same is accordingly dismissed.

There shall be no order as to costs.



//evr//

(SUDHI RANJAN MISHRA)
JUDICIAL MEMBER