

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI

WRIT PETITION No.12373 of 2017

ORDER: (Per Justice Sanjay Kumar)

The petitioner is the applicant in O.A.No.21/222/2017 on the file of the Central Administrative Tribunal, Hyderabad Bench. He is aggrieved by the denial of interim relief therein by the Tribunal under its order 31.03.2017.

The issue raised in the O.A. was with regard to the transfer of the petitioner, an Upper Division Clerk in the Central Administrative Tribunal, Hyderabad Bench, from Hyderabad to Ernakulam. The petitioner alleged that the said transfer was punitive in nature and that his transfer should be stalled on health grounds apart from spousal ground as his wife, who was also an employee of the Tribunal, was working at Hyderabad.

Perusal of the order under challenge reflects that the Tribunal only referred to the first ground urged by the petitioner and no reference was made to the other ground. The Tribunal merely stated that the joining of the petitioner at Ernakulam would be subject to the result of the O.A. and would not prejudice his rights therein. The Tribunal further stated that pendency of the O.A. would not prevent the authorities from considering the representation dated 16.03.2017 made by the petitioner in relation to the impugned transfer order.

Sri V.V.L.N. Sarma, learned counsel for the petitioner, would place reliance on the Office Memorandum dated 30.09.2009 issued by the Government of India through its Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), on the subject of posting spouses at the same station. Learned counsel would further

submit that the petitioner's representation dated 16.03.2017, which referred to all the grounds raised by him, has not been considered as yet by the authorities and in the meanwhile, if he is made to go to Ernakulam, it would amount to grave injustice.

As the Tribunal is yet to look into the merits of the matter, we are not inclined to entertain this writ petition. However, as the petitioner's representation dated 16.03.2017 has not yet been considered by the authorities and he raised a spousal ground therein based on the Office Memorandum dated 30.09.2009 issued by the Government of India itself, the authorities would necessarily have to apply their mind and take a decision thereon. Pending this exercise, if the petitioner is relieved and made to report at Ernakulam, it would not serve the ends of justice.

The writ petition is accordingly disposed of directing the authorities to consider the petitioner's representation dated 16.03.2017 in the light of the Office Memorandum dated 30.09.2009 and on its own merits and pass a reasoned order thereon, which shall be communicated to the petitioner. Till completion of this exercise, the transfer order dated 15.03.2017 shall not be given effect to.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

7th April, 2017

Note:-

Issue CC by 11.04.2017.

(B/o) IBL