

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4004 OF 2018

Balchandra G. Devadiga	...Petitioner
Versus	
Union of India and ors.	...Respondents

Mr. Rahul Walia for the Petitioner.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 3rd MAY 2018.

P.C.

1] Heard Mr. Walia, learned counsel for the Petitioner.

2] The petitioner challenges the judgment and order dated 9th June 2017 made by the Central Administrative Tribunal (CAT), Mumbai dismissing the petitioner's O.A. No. 247 of 2017 questioning his transfer order as well as relieving order dated 12th April 2017 transferring the petitioner from Mumbai to Ahmedabad with immediate effect.

3] From the perusal of the impugned order, it is seen that the petitioner's challenge to the transfer order on the

ground of mala fides or on the ground that such transferred is not to an equivalent post has been rejected. However, the petitioner had also urged that transfer order be set aside on the grounds of illness of his family members, i.e., his father, wife and physically challenged daughter. Insofar as this part of the challenge is concerned, the CAT has issued the following directions:

“71. In the result, we simply dispose of the OA without disturbing the impugned transfer order with a liberty to the applicant to submit a fresh representation to the respondent No.2, through proper channel, raising personal grounds only for cancellation/modification of the impugned transfer order by annexing all the relevant documentary evidence concerning the medical treatment of his family members, within a period of two weeks from today.

72. On receipt of the representation as above, R-2 is directed to consider and pass a reasoned and speaking order thereon in accordance with law, within a period of two weeks from the date of receipt of the representation, especially by considering DOPT's O.M. dt. 6.6.2014 and 17.11.2014 (Annexure-A-11) in respect of disability of applicant's daughter.

73. The orders so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum.

74. Pending consideration of applicant's representation by R-2, the impugned relieving order dt.12.4.2017 is revoked and applicant will be at liberty to resume duty in office of R-3.

75. In the facts and circumstances of the case, parties are directed to bear their respective costs of this O.A.”

4] Mr. Walia, learned counsel for the petitioner, submits that the representation made by the petitioner in pursuance of the liberty granted by the CAT in the impugned judgment and order has since been rejected by the respondents. As against such rejection, the petitioner has instituted O.A. No. 431 of 2017, which is pending consideration before the CAT. In such O.A., the CAT has also protected the petitioner by way of interim relief. The averments to this effect have been made in paragraph 3.11 of the present petition.

5] Since, O.A. No. 431 of 2017 is still pending before the CAT, we do not deem it appropriate to entertain the present petition, at this stage. This is because if the petitioner is ultimately granted relief in O.A. No. 431 of 2017, then, perhaps, there might be no necessity to decide the issue raised in the present petition. If however, O.A. No. 431 of 2017 is decided against the petitioner, the petitioner, can always be granted liberty to not only challenge the order made in O.A. No. 431 of 2017, but also, the present impugned judgment and order, as we have not examined the merits of such order.

6] Accordingly, we dispose of the present petition by granting liberty to the petitioner to challenge the impugned judgment and order after disposal of O.A. No. 431 of 2017, if and when, an occasion for such challenge arises. In the meanwhile, we direct that O.A. No. 431 of 2017 be disposed of on its own merits and in accordance with law, leaving open all contentions of parties.

7] This petition is disposed of with liberty as aforesaid. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)