

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

W.P.No.19655 OF 2018

ORDER: (ORAL)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner-Union of India represented by its Director General, has challenged the order dated 12.01.2018 passed in M.A No.766 of 2017 in O.A No.897 of 2017 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad whereby, vacate petition filed by the petitioner has been dismissed.

2. The respondent is a Director in National Institute of Indian Medical Heritage, Hyderabad. Earlier also he was transferred and aggrieved by the said transfer he filed O.A.No.494 of 2015 before the learned Tribunal. The Tribunal though did not set aside the transfer order, concurred with the several grounds urged by the respondent in relation to the circumstances under which he was transferred, disposed of O.A with a direction to submit a comprehensive detailed representation to the petitioner and on receiving the same the petitioner was directed to consider the transfer of the respondent in the light of Para-48(2) of the transfer policy of the Council objectively and pass a reasoned order. Initially they rejected the representation submitted by the respondent but subsequently on their own withdrew the same by order dated 09.12.2016.

3. Learned counsel appearing on behalf of the petitioner submits that the respondent is working as a Director at Hyderabad on a non-sanctioned post since 2001. He was transferred two times, however, both times, his transfer order was cancelled. In Kerala there is a sanctioned post whereas in Hyderabad it is a non-sanctioned post and the respondent is posted at Kerala. However the respondent is reluctant to join at Kerala.

4. Learned counsel further submits that in the case of transfers either the learned Tribunal or the Court should not interfere therefore the interim order passed by the learned tribunal may be set aside.

5. It is not in dispute that as per Para-48(5) of the guidelines for transfer in Research Council, *“no officers/staff will be transferred after attaining the age of 58 years except on own request or cases requiring disciplinary action or transfer of such officers to their home towns/states.”*

6. Admittedly, the respondent has already attained the age of 58 years on the date of transfer and now remained only 14 months to retire from the service.

7. It is also not in dispute that since 2001 the respondent is working as a Director at Hyderabad admittedly on non-sanctioned post. Therefore, if the respondent shall continue on the said post for another 14 months, it will not

make any difference. Moreover, the respondent is posted in National Institute of Indian Medical Heritage and transferred as In-charge of National Ayurveda Research Institute for Panchakarma in Cheruthurthy (Kerala).

7. It is not in dispute that the respondent never worked for research on Ayurvedic or panchakarma however we failed to understand why the petitioner has decided to send the respondent to such a post where he has no experience.

8. In view of the above, we find no illegality in the impugned order dated 12.01.2018 passed in M.A.No.766 of 2017 in O.A No.897 of 2017 by the learned Tribunal.

9. Finding no merit in the instant petition and the same is accordingly dismissed. No order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J.

ABHINAND KUMAR SHAVILI, J.

Date : 02-07-2018
Gvl