

\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1289/2019

UMESH CHANDRA SINGH

..... Petitioner

Through

Mr. Anupam Srivastava, Mr. Nitin K. Gupta and Mr. Mihir Saraswat, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through

Mr. Manish Mohan, CGSC with Mr. Kavindera Gill and Ms. Manisha Saroha, Advs. for R-1.
Mr. Bharat Sangal, Senior Adv. with Mr. Ashim Vachher and Mr. Sumeet Singh Shokeen, Advs. for R-2 and R-3.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

%

06.02.2020

By the instant petition, the petitioner assails the order dated 21.11.2018 passed by the respondent – NTPC, whereby, the representation dated 19.12.2017 made by the petitioner seeking transfer back to NETRA from KBUNL was refused to be acceded to.

2. Concisely, the facts relevant to the issue agitated by the petitioner, are, as under:

The petitioner was appointed as a Scientist by NTPC in pursuance of the offer of appointment letter dated 22.03.2005 and so joined its Energy Technologies Department as Scientist. Energy Technologies department of NTPC is now known as NETRA. The petitioner continued to remain posted at NETRA for almost 10 years, when, vide office order dated 14.07.2015, he

was transferred to KBUNL, Muzaffarpur, Bihar. The reason of transfer given in the office order was 'administrative transfer'. The petitioner assailed the said office order dated 14.07.2015 before this Court by way of writ petition W.P. (C) 738/2016, but, was not successful inasmuch as the challenge was rendered infructuous. The judgment observing so has attained finality. By the instant petition, the petitioner however seeks to be posted back with NETRA in view of the job rotation policy dated 30.09.2017 issued by NTPC.

3. In the submissions of ld. counsel for the petitioner, the said job rotation policy excludes any job rotation movement *inter alia* of scientists and therefore, in his submissions, as per the extant job rotation policy, the petitioner was required to be transferred back to NETRA, where, the scientists amongst others excluded thereby, are to be retained as per the policy. Adverting to the diverse provisions of the said Job Rotation Policy and Career Development Succession Planning Policy dated 03.10.2017 - which form part of the paper book, ld. counsel for the petitioner strenuously contends that the job profile of the petitioner required the discharge of functions attached to the post of Scientist only, but, the petitioner on his transfer, was being made to discharge functions, which had no relation to the post of the Scientist. In support of his such submissions, the ld. counsel for the petitioner has very ably taken the Court to the various office orders that came to be passed on his joining KBUNL. It emerges from the record that on his transfer to KBUNL and his joining there, he was issued the joining order no. 159/2016 dated 08.02.2016, and, thereby, he was posted as Sr. Manager (Mech.Maint.). Then, he was issued office order dated 10.03.2016, and, thereby, posted to Operation Department with immediate effect.

Thereafter, he was issued another officer order dated 16.04.2016, and, thereby, posted for the shift operation with immediate effect. Thereafter, he was issued another office order dated 29.11.2017, and, thereby, assigned to oversee housekeeping work - interestingly, a Scientist deputed to oversee housekeeping work. Then, another office order dated 28.02.2018 followed, and, thereby, the petitioner came to be posted to Safety Department. During the course of hearing, on being queried, ld. counsel for the petitioner states that as yet, the petitioner continues to remain posted with Safety department. In the given factual conspectus, ld. counsel for the petitioner strenuously seeks quashing of the impugned decision taken by NTPC, whereby, the representation made by the petitioner for being posted back to NETRA was refused to be entertained.

4. Mr. Sangal, ld. senior counsel for NTPC on his part strenuously contends that either of the policies relied upon by the petitioner was of no consequence for the relief sought by the petitioner. In his submissions, either of the two policies, was meant for affording opportunities to the Executives to enable continuous capability building as well as equip them with the requisite knowledge and for assuming higher responsibilities in future and that, such policies were distinct from the transfer policy of NTPC.

5. During the course of hearing it does transpire that NTPC maintains a separate transfer policy for Executives, and, it is the petitioner only, who has placed on record a copy thereof along with the rejoinder as Annexure P-1 (colly). Taking note of the submissions of Mr. Sangal and the transfer policy for Executives being already in place, the submissions of Mr. Sangal, ld. senior counsel are found well merited. In view thereof, the Court does not consider it necessary to get into the merits of the basis on which NTPC

issued the impugned letter dated 21.11.2018 rejecting the petitioner's representation. Then, suffice it would be to observe, the posting of the petitioner to KBUNL having attained finality, which got the approval of the Court vide its order dated 23.05.2016 passed in W.P.(C) 738/2016, the only recourse available to the petitioner is to seek his transfer/posting as per the applicable transfer policy. Mr. Sangal, ld. senior counsel on his part submits, for the purpose, the petitioner is required to make a representation and any such representation can be made to the Management of NTPC.

At this stage, ld. counsel for the petitioner comes forward to say that he has instructions to not to press the petition any further and that the petitioner shall make a representation to the Management of NTPC for his posting/transfer to any place in India for discharging the duties for which he was appointed. The Court considers it to be very fair and it is hoped that the Management of NTPC considers the case of the petitioner in the spirit of getting the duties discharged by the petitioner for which he was appointed rather than being made to do other jobs like overseeing the housekeeping or safety department etc. etc.

6. In view of the foregoing, the writ petition is disposed of with the direction that on the petitioner making an appropriate representation for being assigned the duties for which he was appointed within two weeks, as prayed, the Management of NTPC shall consider such representation and take an appropriate decision thereon *inter alia* on his posting/transfer to any place in India as may be required, within eight weeks of such representation being made. The decision so taken shall be communicated to the petitioner immediately and in the event, the petitioner feels aggrieved thereof, the petitioner would be at liberty to approach the Court afresh. Writ petition

stands disposed of in the above terms. No order as to costs.

7. *Dasti* to the parties, under the signature of Court Master.

A. K. CHAWLA, J

FEBRUARY 06, 2020

acm