



W.P.No.29497 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.29497 of 2023
and
W.M.P.No.29230 of 2023

Shatrughan

... Petitioner

Vs.

1.The Government of India,
Department of Atomic Energy,
rep. by its Secretary,
Mumbai – 400 001.

2.Government of India,
Department of Atomic Energy,
Indira Gandhi Centre for Atomic Reserch
rep. by its Director,
Kalpakkam – 603 102.

3.Global Centre for Nuclear Energy Partnership (GCNEP),
rep. by its Project Director,
145A, South Block,
New Delhi - 110 011.

4.Bhabha Atomic Research Centre,
rep. by its Director,
Tombay,
Mumbai - 400 085.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent bearing impugned letter No. 6/1/ 2023 - Admin (L) / 498 dated 26/05/2023 and quash the same and direct the 2nd Respondent to approve and forward the petitioner application for transfer from the 2nd respondent to the 3rd respondent.

For Petitioner : Mr.Ramasubramaniam Raja

For Respondents : MrAR.L.Sundaresan,
Additional Solicitor General of India
assisted by MrK.Srinivasamurthy
Senior Panel Counsel

ORDER

This Writ Petition is filed to quash the order of the 2nd respondent dated 26/05/2023 and to direct the 2nd respondent to approve and forward the application of the petitioner for transfer from the 2nd respondent to the 3rd respondent.

2.It is the case of the petitioner that he joined the 2nd respondent Department which is under the 1st respondent. On 11.05.2010, the petitioner as Scientific Officer (D) (Electronics) was promoted as Scientific Officer (E) in 2018. While the petitioner was working with the 2nd respondent for the past 13 years at Kallapakkam, he had been applying for transfer for several years.



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Despite being eligible for transfer through proper channel on various dates the same was refused. Further, the transfer applications filed by the petitioner were either rejected without proper consideration or the status of the said applications, were not disclosed. The reply of the 2nd respondent dated 26.05.2023 to the Legal Notice states that the guidelines for transfer are when employees whose spouse are working elsewhere, employees seeking transfer on acute health condition for self, spouse, dependents, parents requiring specialized treatments, transfer on functional ground and transfer of mutual basis with equivalent entry grade and presently in the same grade. It is the further case of the petitioner that despite being eligible for transfer under the present guidelines like, transfer on mutual basis and transfer on account of health conditions dependent parent, the application for transfer is being refused on arbitrary grounds. The refusal to transfer is purely a punitive measure and not on any valid ground. The petitioner's supervisor has been refusing to approve and forward the application of the petitioner for transfer.

3.The learned counsel appearing for the petitioner would submit that the respondents sent reply dated 26.05.2023 to the legal notice that the transfer application dated 26.06.2020 was considered and recommended by the Transfer Committee which meet on 20.01.2021 for transfer from IGCAR



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Kalpakkam to GCNEP, Bahadurgarh was also not forwarded by the 2nd respondent due to purported shortage of manpower faced. Though the petitioner was eligible for transfer the 2nd respondent has refused to forward the application of the petitioner to the 3rd respondent.

4.The learned Additional Solicitor General of India appearing for the respondents would submit that there is no formal transfer policy for scientific and technical persons. It is a public sector undertakings Corporation.

5.Heard the learned counsel appearing on either side and perused the papers.

6.On perusal of the records, it is seen that the petitioner joined as Scientific Officer (D) (Electronics) on 11.05.2010 and thereafter, he was promoted as Scientific Officer (E) in 2018. He is working with the 2nd respondent for the past 13 years and had been applying for transfer for several years. The applications for transfer repeatedly refused by the respondents. The 2nd respondent is a public undertaking sector. They have notified under Section 14 of the Administrative Tribunal Act, 1985. Therefore, in any service matters, the High Court lacks original jurisdiction under Article 226 of the Constitution



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of India to entertain service Writ Petition or even try any adjudication the pending service matters and the remedy lies only before the Central Administrative Tribunal. The Tribunals for dealing exclusively with service matter of Government servants provided for exclusion of jurisdiction all the Courts. Here, the 2nd respondent falls under the Department of Atomic Energy. Therefore, this Writ Petition is not maintainable.

Accordingly, this Writ Petition is disposed of. Liberty is given to the petitioner to go before the Central Administrative Tribunal and the Tribunal is directed to consider the same as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

11.10.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1. The Secretary,
Government of India,
Department of Atomic Energy,
Mumbai – 400 001.



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2.The Director,
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V.BHAVANI SUBBAROYAN, J.

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