



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

Judgment reserved on: 02.11.2023

Judgment delivered on: 20.11.2023

+ **W.P.(C) 9688/2022, CM APPL. Nos. 28839/2022 & 36089/2022**

SANTOSH SINGH GOLIA

..... Petitioner

Through: Mr.Somnath Mukherjee, Advocate

versus

**THE COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH & ORS.**

..... Respondents

Through: Mr.Jayesh K. Unnikrishnan, Adv.
Mr.Malay Swapnil, Adv for
respondents CSIR.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

ANOOP KUMAR MENDIRATTA, J.

1. The challenge in this writ petition is to an order dated March 09, 2022 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter, referred to as the 'Tribunal') in OA No. 397/2022 whereby the OA preferred by the petitioner for quashing of order dated November 26, 2021 issued by respondent No.2, transferring her from Department of Bhartiya Nirdeshak Dravya ('BND') to Centre for Calibration and Testing ('CFCT') in CSIR was dismissed.

2. In brief, as per the case of the petitioner, she belongs to reserved category and was initially appointed as Scientist 'B' in 1993. Since 2019,



she was made to suffer by denial of promotion for two consecutive terms i.e. 2017-2018 and 2018-2019 and was consequently constrained to file OAs before the Tribunal. Further, while she was posted as Senior Principal Scientist IV(V) under the control of respondent No.2 (Council of Scientific & Industrial Research, National Physical Laboratory), she was transferred vide order dated November 26, 2021 from the department of BND to CFCT.

3. The grievance of the petitioner is that her transfer from Department of BND to CFCT would deprive her from scientific research work, since the work profile to the transferred job primarily relates to services of certificates, files, billing etc. in addition to other assigned duties in the Division. Further, representation dated November 30, 2021 and correspondences on February 01, 2022 made by her seeking permission to remain in BND yielded no result. Consequently, OA was preferred by the petitioner before the tribunal.

4. Learned counsel for the petitioner submits that the petitioner having a professional scientific background for a period of 28 years could not have been transferred to a low profile job dealing with non-scientific work. The transfer orders are stated to be discriminatory as utility of the petitioner for benefit of the institution was ignored while transferring to CFCT Section. It is further submitted that petitioner as revengeful action was also asked to appear before the Review Committee.

5. In the counter affidavit, respondents took a stand that transfer is an incidence of service and judicial review of transfer orders can be done on a very limited premise. Respondents denied that the petitioner was made to suffer or *malafidely* overlooked for promotion for two consecutive terms 2017-2018 and 2018-2019. Petitioner is stated to have been finally promoted vide order dated May 27, 2021. It is further pointed out that



National Physical Laboratory ('NPL') is one of the National Laboratories to strengthen and advance physics-based research and development of science and technology in the country and the petitioner was transferred to CFCT wherein the duties do not absolve her from scientific work or change her designation. Further, CSIR-NPL is responsible for maintaining the national standards of measurements, traceability of measurement through bilateral/international key comparisons and quality system and CFCT Division was established to promote calibration and testing services of the laboratory. Also, CFCT acts as an interface between all the calibrating and testing groups of CSIR-NPL with nearly 4200 customers from industries, various laboratories and government organisations from all over the country and abroad. The job in CFCT is claimed to require someone who has good scientific background. It is also pointed out that vide e-mail dated March 29, 2022, petitioner was requested to appear before the Project Evaluation Committee ('PEC') on April 04, 2022 to give presentation of her scientific research for the last five years including the ongoing research work as per practice and not to victimize the petitioner in any manner. The allegation that the petitioner belongs to reserved category and is being victimized was also denied since the Head is also stated to belong to reserved category. The jobs in CFCT Division are also stated to be handled by the Scientific and Technical Personnel and the decision to transfer the petitioner from BND to CFCT is stated to have been taken after considering all the facts and circumstances.

6. We have given considered thought to the contentions raised.

Admittedly, petitioner stands transferred from BND to CFCT Division, without affecting her pay, continuity or conditions of service.



Respondents have categorically taken a stand that there is no change in the nature of job and have pointed out that CFCT Division is purely scientific division manned by Scientific and Technical Personnel in the past as well as in the present. The posting of the petitioner in CFCT Division is further stated to have been taken considering the fact that the said division had been established by the CSIR-NPL to promote calibrating and testing the services of laboratories, with customers from industries, laboratories and government organisations all over the country and abroad.

It is well settled that administrative department is best suited to judge the administrative exigencies and the transfer order made in public interest for administrative reasons should not be normally interfered with unless the same is shown to have been made in violation of any mandatory rule, policy or is apparently *malafide*. It is equally well settled that an employee does not have any vested right to remain posted in a particular division/department and is liable to be transferred. In the facts and circumstances, we are of the view that scope of interference is very limited. The stand taken by the petitioner that she was victimized is not substantiated on record, since the petitioner was duly promoted in 2021 and was earlier not found suitable for the years 2017-2018 and 2018-2019.

7. However, it may be noticed that the transfer order stipulates that the petitioner will be primarily associated with the services related to certificates, case files, billing etc. in addition to other assigned duties in the division. Considering the legitimate expectation of the petitioner and to ensure that she is not deprived of association with scientific work undertaken by her as Principal Scientist and her services are optimally utilized,



respondents are directed to look into the representation of the petitioner, if any filed, keeping in view the administrative exigencies.

8. For the foregoing reasons, we do not find any ground to interfere with the impugned order of transfer. The writ petition is accordingly disposed of. In the facts and circumstances, no order as to costs. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR MENDIRATTA)
JUDGE

(V. KAMESWAR RAO)
JUDGE

NOVEMBER 20, 2023/v/sd