

No. HR-02024/20/2016-A(P&T)

Government of India
Office of the Development Commissioner (MSME)
Ministry of Micro, Small & Medium Enterprises
Admn(P&T) Section

Nirman Bhawan, New Delhi

Dated: 28th August, 2020

OFFICE ORDER

This has reference to order of Hon'ble CAT, Principal Bench, New Delhi O.A. No. 972/2020 dated 31/07/2020 The Speaking Order is following:-

2. Shri P. Lakshminarayana, Investigator, was transferred to Br. MSME-DI Tirunelveli on grounds of pure exigency and public interest, as would be explained later in this order. Shri P. Lakshminarayana approached the Hon'ble CAT but neither had he intimated his office nor Headquarters was in receipt of intimation or communication/notice from his advocate. It is also not known who appointed the advocate pleading our case and whether he is a Central Government Standing Counsel duly authorised by the Government. We have not been communicated from the Ministry of Law & Justice about any such case or any such advocate having been appointed. There is a serious flaw in his appeal, since he has approached the Hon'ble CAT without exhausting all administrative arbitration from appropriate authorities as prescribed under the extant rules. There was only one e-mail as received from him in this regard.

3. It is also brought to the attention of the Hon'ble CAT in this order that Shri P. Lakshminarayana has taken recourse to falsehood before Hon'ble CAT with the sole purpose of getting his transfer order cancelled and has drawn sympathy of Hon'ble CAT on the basis of that falsehood. That he belongs to Group 'C' is a blatant lie and actually he belongs to Group 'B'. There is no order saying that in his grade (Investigator) there is no liability of all India service.

4. The organisation MSMEDO is all India in nature with employees having an all India transfer liability except only in the case of the Clerical Cadre in this organisation and some of the Testing Centre Technical Cadres, The Investigators are entitled to the same treatment as in the case of all other MSME-DO officers (presently included in the IEDS) in terms of transfer liability.

Nirman
28/08/2020

5. The facts of the case:-

Shri P. Lakshminarayana had joined as Investigator on 23.04.1996 at MSME-DI, Ludhiana and last transferred to MSME-DI, Chennai. He is posted at MSME-DI, Chennai since 13.04.1998 (22 years). He is an office-bearer of the All India MSME DO Technical Officers Association (AIMTOA), the so called Association for MSME DO officers which is yet to be recognised by Competent Authority. He has tried to mislead the Authorities that the transfers made by this office is not as per Government guidelines in COVID-19 situation citing reasons that “most of the Central Government Departments have either declared or are contemplating to declare no transfer during the year 2020-21, is not in the best interest of the Department and exhibit the lack of concern for employee welfare. It contradicts the practice followed in the other Departments.” (Copy enclosed). This shows his propensity to take recourse to falsehood since there is no such order as referred to by him and it further proves that he is not amenable to the best interest of public and decision of Competent Authority.

6. In view of his difficulty in moving out to Delhi, Headquarters considered his case sympathetically. In view of medical emergency in the family of Shri M. Govindraj, he had been taken out of Tirunelveli and Shri P. Lakshminarayana, posted to Br. MSME-DI, Tirunelveli. It is mentioned in the relevant Order in clear and specific terms; this office has supporting documents. The transfer of Shri M. Govindraj was made on his representation received from him citing medical exigencies/emergencies and he was transferred at his own cost. In fact, this transfer was done as an act of consideration for Shri P. Lakshminarayana. Since he represented against his Delhi posting, citing his difficulties, this office shifted him within his native State and even then he is aggrieved. The Government cannot be expected to keep some staff stationery and transfer only others.

7. Hence, this order contested by Shri P. Lakshminarayana was issued keeping in view of all canons of natural justice including just and sympathetic consideration as regards personal situation of both of them.

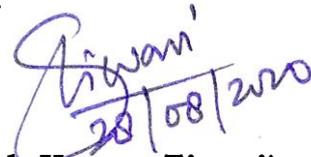
8. There was no arbitrariness or whimsical fancy on the part of the Authorities since Shri P. Lakshminarayana was transferred out of Chennai after an unbroken stint of 22 years. All officers in this organisation bound to serve all over India.

P. Sivani
28/08/2020

9. As could be guessed (in absence of his original submission before Hon'ble CAT) from the judgement of Hon'ble CAT, that the Investigator should be posted within the State. This is another false statement on this but even by his own submission, he has not faced any unfair treatment since he is posted within State of Tamil Nadu.

10. It may also be noted that he is one of the few Investigators who have not done North-East tenure in their respective careers. It was purely under humanitarian consideration that he was transferred to a place in the same State whereas he should have been given posting in the North-Eastern Region. It is reiterated that the order was issued after due application of mind as regards every aspect of this particular mutual transfer and also the linked one i.e. that of Shri M. Govindraj. So, there is no reason to change the order and Shri P. Lakshminarayana may be released immediately after 31st of August, 2020, for joining his Br. MSME-DI, Tirunelveli posting.

This issues with the approval of the Competent Authority.


(Santosh Kumar Tiwari)
Deputy Director (Admn)/HOO
Ph: 23061472

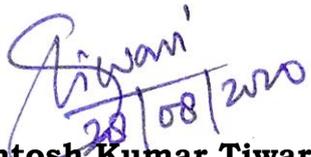
Encl: As above.

To:-

1. Shri P. Lakshminarayana, Investigator, MSME-DI, Chennai;
2. The Director(I/c), MSME-DI, Chennai-he is to follow instructions for the MSME-DI as contained in the order above;
3. Personal file/Office Order folder;
4. SENET Division-to place the order in the office website.

Copy for information to:-

1. Registry, Hon'ble Central Administrative Tribunal, 61/35 Copernicus Marg, New Delhi – 110001 in reference to Hon'ble CAT Principal Bench, New Delhi Order dated 31.07.2020 in the matter OA No. 972/2020;
2. PA to ADC(Admn);
3. PA to Director(Admn).


(Santosh Kumar Tiwari)
Deputy Director (Admn)/HOO



All India MSME DO Technical Officers Association

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Sh. Ami Lal
Sh. Tapas Roy

No: AIMTOA/2020-21/3

Date: 24th May 2020

To

The Additional Secretary and Development Commissioner (MSME)
Ministry of Micro, Small and Medium Enterprises
Nirman Bhawan, Maulana Azad Road
New Delhi - 110011

Respected Sir,

Sub: Request for cancelation of the transfer orders due to covid-19 pandemic - reg

It is understood that the Office of Development Commissioner (MSME), New Delhi has issued orders for transfer of the Officers working in the Headquarters and the field offices throughout India. This has been done without taking into account the fact that presently, the entire country is facing the severe health crisis due to Pandemic Covid-19.

Ministries of Home Affairs and Health & Family Welfare are continuously issuing guidelines to contain the Covid 19, which, inter alia, requires avoidance of non-essential official travel. All officials are required to take care of their own health and look out for respiratory symptoms/fever and, if feeling unwell, should leave the workplace immediately and observe home-quarantine etc.

In this scenario the sudden cross country transfer of employees in the name rotational transfer, despite the Covid -19 pandemic, when most of the Central Government departments have either declared or are contemplating to declare no transfer during the year 2020-21, is not in the best interest of the department and exhibits the lack of concern for employee welfare. It contradicts the practice followed in other departments.

We sincerely believe that, for greater public interest and to build "Atmanirbhar Bharat" the Ministry of MSME has the most crucial role to play. To get the best out of each employee of the Office of DCMSME and to boost up their morale and to motivate them to the greatest possible height, such issues need to be resolved immediately.

In that connection, it is requested that the transfer orders, except own volition cases, may kindly be considered for immediate withdrawal in view of prevailing crisis as is practiced in other Central Government Departments.

Yours Faithfully,

P. L. Narayana

(P. L. Narayana)
General Secretary