



2025:DHC:5851-DB



\$~57

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 21.07.2025

+ W.P.(C) 10362/2025
UNION OF INDIA & ANR.Petitioners
Through: Mr. Iskaran Singh Bhandari,
CGSC with Mr. Piyush Yadav,
Adv.

versus

SAMEER DNYANDEV WANKHEDERespondent
Through: Mr. Sudhir Nandrajog, Sr. Adv.
and Mr. Arvind Nayar Sr. Adv.
with Mr. Nikhil Palli, Mr. Jatin
Prashar, Mr. Shadab Anwar,
Mr. Niyati Razdan, Ms. Bhavya
Sharma, Mr. Vidushya Parth,
Ms. Diksha and Mr. Shubham,
Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CAV 267/2025

1. Mr. Nikhil Palli, the learned counsel, enters appearance on behalf of the respondent.
2. In view of the above, the caveat stands discharged.

CM APPL. 42969/2025 (Exemption)

3. Allowed, subject to all just exceptions.

W.P.(C) 10362/2025 AND CM APPL. 42966-68/2025



4. This petition has been filed challenging the Order dated 20.02.2025 (hereinafter referred to as ‘Impugned Order’) passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as ‘Tribunal’) in O.A. No. 3677/2024, titled ***Sameer Dnyandev Wankhede v. Union Of India & Anr.***, allowing the OA filed by the respondent herein and setting aside the Order dated 30.05.2022 (hereinafter referred to as ‘Transfer Order’), whereby the petitioner had transferred the respondent from Directorate General of Analytics and Risk Management, Mumbai (hereinafter referred to as ‘DGARM’) to the Directorate General of Taxpayer Service, Chennai (hereinafter referred to as DGTS).

5. The learned counsel for the petitioner submits that the learned Tribunal has committed various errors in the Impugned Order. He submits that while it was the admitted case of the respondent in his rejoinder filed in the above OA, that he had remained posted at Mumbai for 12 years, out of which, for a period of 6 years and 8 months, he was on deputation “in Mumbai” and had claimed that the same needed to be excluded in terms of para 7.3 sub-para 7.3.1 of the Transfer/Placement Guidelines, 2018 (hereinafter referred to as ‘Transfer Policy’), the learned Tribunal, however, without any material on record, in its conclusion, while attributing malice to the petitioners in passing the Transfer Order, has stated that out of these 6 years and 8 months, the respondent had spent 4 years and 4 months in Delhi. He submits that this finding was without any basis and contrary to the own assertion of the respondent.

6. He further submits that the learned Tribunal has also erred in



not appreciating that the OA filed by the respondent itself was barred by limitation in terms of Section 21 of the Administrative Tribunals Act, 1985 (hereinafter referred to as ‘the Act’). He submits that though the Transfer Order was dated 30.05.2022; while the OA was filed only in September 2024, that is, beyond the period of limitation. The OA was not accompanied with any application seeking condonation of delay. He points out that this objection was raised by the petitioners, but has not been dealt with by the learned Tribunal in its Impugned Order.

7. He submits that the petitioners had also stated that the respondent has been transferred due to some allegation of “illegal activities” against him and this was supported by an FIR being registered by the CBI against the respondent dated 11.05.2023. However, in the Impugned Order, the learned Tribunal has again attributed malice to the petitioners for the impugned transfer, by stating that there was no proof of any such “illegal activities” against the respondent.

8. Issue notice.

9. Notice is accepted by Mr. Nikhil Palli, the learned counsel on behalf of the respondent.

10. The learned senior counsels appearing for the respondents submit that the learned Tribunal has rightly held that out of 6 years and 8 months spent by the respondent on deputation, for 4 years and 4 months, he was in Delhi. They submit that this finding was based on the self-declaration of the petitioner that organization where the respondent was on deputation, had its headquarter in Delhi. They



submit that this information was derived from the website of the petitioners themselves.

11. On the issue of limitation, they submit that post the Impugned Transfer Order, the respondent had submitted various representations to the petitioner; these representations were eventually rejected by the petitioners only on 18.07.2024. The O.A. was, thereafter, filed in September 2024, that is, within the period of limitation.

12. On the allegation of “illegal activities”, they deny the same and submit that a subsequently registered FIR cannot be used as a justification for the Transfer Order. They submit that various other documents were also placed before the learned Tribunal, which have not been filed by the petitioners along with present petition.

13. We have considered the submissions made by the learned counsel for the parties.

14. We note that that the Impugned Transfer Order was dated 30.05.2022. It is not disputed that the respondent joined his transfer posting in June 2022. Thereafter, the respondent did make some representations against his transfer, however, did not approach the learned Tribunal challenging the Transfer Order. It appears that the respondent also sought his re-transfer to Mumbai, which was rejected by the petitioners. Whether this would have extended the period of limitation for challenging the initial Transfer Order, is a question which should have been determined by the learned Tribunal. However, *prima-facie*, we do not find any finding being given by the learned Tribunal on this issue though raised by the petitioners.

15. The question of OA being barred by limitation has not been



answered by the learned Tribunal. The petitioner has placed reliance on the Judgment of the Supreme Court in *Secy. to Govt. of India v. Shivram Mahadu Gaikwad*, 1995 Supp (3) SCC 231, in support of his plea that the preliminary objection has to be answered by the learned Tribunal before it enters the merits of the grievance raised.

16. Even on the matter of the place of deputation, the learned Tribunal has attributed malice to the petitioner by holding that out of 6 years and 8 months that the respondent was on deputation, he had spent 4 years and 4 months “in Delhi”. The learned senior counsels for the respondents, today admit that during this 4 year and 4 month period as well, the respondent was physically posted in Mumbai, though his headquarter was at Delhi. In fact, they submit that this was the plea taken even before the learned Tribunal, however, the finding of the learned Tribunal is based only on the website of the petitioners.

17. They submit that the period of deputation, however, had to be excluded from his period at Mumbai for purposes of transfer as per Clause 7.3.1 of the Transfer Policy.

18. We, however, *prima-facie* find that the learned Tribunal has attributed malice to the petitioners by finding that the respondent was posted “in Delhi”, which was not even the case of the respondent.

19. At this stage, the learned senior counsels for the respondent submit and pray that the matter be remanded back to the learned Tribunal for a fresh adjudication.

20. Accordingly, we set aside the Impugned Order passed by the learned Tribunal. We restore the OA back to its original number.

21. The learned Tribunal shall consider the OA afresh, including on



2025:DHC:5851-DB



the question of limitation, remaining uninfluenced by any observation made by the learned Tribunal in its Impugned Order or by us in the present Order. All rights and contentions of the parties shall remain open to be agitated before the learned Tribunal.

22. As the matter is being remanded back to the learned Tribunal, we request the learned Tribunal to expedite the adjudication of the same and decide the same preferably within a period of two months of its first sitting.

23. The parties shall appear before the learned Tribunal on 4th August, 2025.

24. The petition along with pending applications is disposed of in the aforesaid terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 21, 2025/bsn/p/my