

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00513/2017

DATED THIS THE 18TH DAY OF APRIL, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Sunil Kumar Pandit
Age: 46 years,
S/o Late Jamun Kumar,
Working as Principal Scientific
Officer at Sr. Quality Assurance
Esst (Electronics) DGQA Complex,
Ministry of Defence,
S.K. Garden,
Benson Town,
Bangalore – 560 046
Residing at
Type 5 QTRS No. P-2/1,
Gunota Vihar, J.C. Nagar,
Bangalore – 560 006.

...Applicant

(By Advocate Smt. Akkamahadevi Hiremath)

Vs.

1. Union of India,
Represented by Secretary,
Ministry of Defence,
(Defence Production)
DHQ-Nirman Bhavan,
New Delhi – 110 001.

2. Directorate General of Quality
Assurance,
Department of Defence,
Production Quality/Assurance,
DHQ-PO,
New Delhi – 110 001.

3. Administrative Officer,
Senior Quality Assurance Esstt,
(Electronics),
DGQA-Complex,
Ministry of Defence,

S.K. Garden,
Benson Town,
Bangalore – 560 046.

4. Additional Directorate of Quality
Assurance (R&S),
HQDQA (R&S),
DGQA Complex,
Manovikasnagar P.O,
Secundrabad – 560 009.

...Respondents

(By Shri. S. Prakash Shetty, Senior Panel Counsel)

O R D E R (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. Despite the contention of the applicant also we are convinced that this is a matter which requires a sensitive treatment. The DoPT had issued a circular to indicate that in such cases the caregiver cannot be transferred out if it prejudice the life and dignity of life of the patient. The applicant's wife also has a problem but daughter has serious psychological issues along with Diabetes Mellitus and repeated seizures. We had gone carefully through the drugs which are prescribed for her and find that these are also reticent and sleep inducing drugs which indicate a high degree of motor activity. It appears to us that only NIMHANS can provide that kind of treatment at least in Southern India. Unfortunately the applicant also had claimed only for a transfer upto 2019 when his daughter will finish a course at Mount Carmel college at Bangalore. We had looked at her identity card which itself is revealing. The pupils are dilated beyond compare and not focussed at all. Such being the condition of the daughter she will squarely come within the ambit of the circular issued by the DoPT. Therefore we will go a little further than what the applicant claimed. We will direct the respondents to keep him in Bangalore till NIMHANS certifies that his daughter's condition has stabilized and she can be moved out of their care.

The primary issue is not the administrative exigency but the life and dignified life of the daughter. The respondents in this case will follow whatever the Director of NIMHANS will suggest as to the methodology of the treatment and go by it only. We will quash the transfer order against the applicant but then will direct the applicant to obtain six monthly reports from NIMHANS and present it before the respondents about the required care for the daughter and the need for the caregiver to have an immediate access. What is relevant in this situation is only the report of the Director of NIMHANS and nothing else.

2. The transfer order is quashed but then the continuation of the applicant at the present place will depend on the six monthly reports of the Director of NIMHANS as the case may be.

3. The OA is allowed. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00513/2017

Annexure A1 Copy of impugned rotation transfer dated 13.09.2017

Annexure A2 Copy of the notification dated 24.11.2016 pertaining to transfer policy

Annexure A3 Copy of the order dated 20.12.2016 passed in OA No. 816/2016

Annexure A4 Copy of the representation dated 23.01.2017 submitted by the applicant.

Annexure A5 Copy of the speaking order dated 23.03.2017

Annexure A6 Copy of the representation dated 03.07.2017 submitted by the applicant.

Annexure A7 Copy of the speaking order dated 18.04.2017

Annexure A8 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to PScO

Annexure A9 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to SSO-I

Annexure A10 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to SSO-II

Annexure A11 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to ADG-SAG-DDG

Annexure A12 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to Directors-JAG

Annexure A13 Copy of the table showing the name of officer, rank, number of years of service, name of station pertaining to ADG-DDG

Annexure A14 Copy of the rotation transfer scheme dated 29.10.1999 in Circular dated 15.11.1999

Annexures referred in Reply Statement

Annexure R1 Copy of Ministry of Defence Rotational Transfer list dated 31.08.2017

Annexure R2 Copy of transfer list No. 98969/RTS-2017 dated 06.11.2017

Annexure R3 Copy of No. A/92163/CR/DGQA/Adm-7B dated 08.03.2016

* * * * *