

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA 310/0246/2018

Dated Thursday the 19th day of December Two Thousand Nineteen

**CORAM : HON'BLE MR. P. MADHAVAN, Member (J)
HON'BLE MR. T. JACOB, Member (A)**

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Namakkal District
637408.

.... Applicant

By Advocate M/s. Giridhar & Sai

Vs

1. Union of India
Represented by its Director General
Indian Council of Agricultural Research (ICAR)
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi – 110 001.

2. Under Secretary (FS)
Indian Council of Agricultural Research (ICAR)
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi – 110 001.

3. The Director
Central Institute of Fisheries Technology (ICAR-CIFT)
Willingdon Island, Matsyapuri
P.O. Cochin
Kerala – 682 029.

4. The Director (P)
Indian Council of Agricultural Research (ICAR)
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi – 110 001.

5. The Director
Central Institute of Brackishwater Aquaculture (ICAR-CIBA)
No.75, Santhome High Road, Raja Annamalai Puram
Chennai, Tamil Nadu 600 028.Respondents

By Advocate Mr. S. Yashwanth

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985.

2. The case of the applicant shorn of unnecessary frills is as follows:

The applicant is working as a Scientist in ICAR-CIFT, Kochi. His wife is working in Tamil Nadu Co-operative Milk Producers Federation Limited (TCMPF) popularly known as AAVIN. Since his wife is working in Chennai, he is entitled to get a transfer to Chennai as per DoPT OM No. 28034/9/2009-Estt(A) dt. 30.09.2009. There exists two posts of Scientist (Fish processing Technology) at Chennai in Central Institute of Brackish Water Aquaculture (CIBA) of ICAR. Though the applicant gave a representation for transfer to the said post, one Dr. Neethu (Agricultural Structure and Process Engineering) was appointed there. The said Dr. Neetu wanted a transfer to Kochi and hence the applicant and the said Neetu applied for a mutual transfer. But the 2nd respondent had rejected the representation stating that the transfer guidelines of ICAR does not provide for mutual transfer. So the applicant seeks the following reliefs:

“i. To call for records relating to order vide F. No. Fy/4/1/2017-IA/VI dated 08.08.2017 passed by the 2nd respondent and to set aside the same;

ii. To direct the respondents to transfer the applicant to ICAR-Central Institute of Brackishwater Aquaculture

(CIBA), Chennai in the post of Scientist (Fish Processing Technology) in the Pay Band Rs. 15,600 – 39100/- and Grade Pay Rs. 6000/- together with pay, allowances and all other consequential benefits

iii. To award costs, and pass such further and other orders”

3. The respondents filed reply denying the contentions of the applicant. It is contended that ICAR can be represented only by its Secretary. According to them, ICAR introduced online Personal Management Information System (PMIS) for efficient and transparent management of scientific cadre. Prior to this it was noticed that in some institutes scientists were posted in excess of sanctioned strength and in some institutes posts are lying vacant. So ICAR took some steps to redeploy the strength by Committee. Some scientists were temporarily accommodated till the exercise of re-deployment is completed.

4. The respondents admitted the receipt of application for mutual transfer of the applicant. But since the disciplines of both are different, it could not be processed as per guidelines. According to respondents they give importance to post the spouses in convenient location if it is possible. But it is not a right vested with the employee. There exist no vacancy at CIBA as there already exist excess strength. There is no arbitrariness in rejecting the application for mutual transfer.

5. The counsel for the applicant invited our attention to the DoPT OM No. 28034/9/2009-Estt(A) dated 30.09.2009 where the DoPT has issued guidelines for posting of spouses and inter institutional transfer policy of ICAR for

scientist produced as Annexure A3 and A8 respectively. He also ropes support for mutual transfer from the decision of the Hon'ble High Court of Kerala in WP (c)22352/2010 in Mohandas M.K. Vs. State of Kerala and Others and argues that “where there is service regulations permit transfer from one bank to another, a mutual transfer is also equally permissible.”

6. We had heard the counsel for the respondents also. On a perusal of facts revealed in this OA we cannot find any patent irregularity or illegality in the rejection of the mutual transfer request as there exists no such provision. But there is also nothing wrong in making a transfer on the basis of such request if it is not against the interest of the institution. So there is no reason to set aside the orders passed by the respondents in this case. So we are of the opinion that the OA cannot be allowed and it is liable to be dismissed. Anyhow we deem it appropriate to direct the respondents to consider the request for transfer of the applicant to CIBA, Chennai as and when vacancy arises.

7. The OA is disposed of accordingly.

(T.Jacob)
Member(A)

19.12.2019

(P. Madhavan)
Member(J)

AS

Annexures filed in the OA

Sl. No.	Date	Description	Annexure No.
1	01/07/15	Service details of the applicant as Scientist in the Indian Council of Agricultural Research (ICAR)	A-1
2	12/01/17	Appointment order of the applicant's wife in the post of Manager (Engg) in Tamil Nadu Co-operative Milk Producers Federation Limited (TCMPF) Aavin	A-2
3	30/09/09	DOP&T OM No. 28034/9/2009-Estt.(A)	A-3
4	---	Cadre Structure of ICAR-Central Institute of Brackishwater Aquaculture (CIBA), Chennai	A-4
5	13/06/17	ICAR's employees details	A-5
6	19/01/17	The Applicant's representation to the 1 st respondent seeking transfer to the post of scientist (Fish Processing Technology at ICAR-CIBA	A-6
7	13/02/17	The 3 rd respondent forwarded the representation dated 19.01.2017 to the 1 st respondent	A-7
8	15/06/16	ICAR Inter-Institutional Transfer guidelines of Scientists	A-8
9	20/02/17	ICAR revised transfer guidelines for ARS Scientists	A-9
10	13/06/17	ICAR's employees details	A-10
11	24/05/17	Dr. Neethu's representation to the 1 st respondent seeking to transfer from ICAR-CIBA, Chennai to ICAR-CIFT, Cochin	A-11
12	24/05/17	The applicant's representation to the 1 st respondent seeking mutual transfer to ICAR-CIBA, Chennai.	A-12
13	02/06/17	The 3 rd respondent forwarded the applicant's and Dr. Neethu's representation for mutual transfer to the 1 st respondent.	A-13
14	08/08/17	Order of the 2 nd respondent rejecting the applicant's representation for mutual transfer.	A-14