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CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00240/2020

Thursday, this the 18th day of June, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

P.V.Damodaran

MCM

Smithy Shop, Naval Ship Repair Yard

Naval Base, Kochi – 04

Residing at 'Anugraham'

Thiruvankulam P.O, Ambadimala

Kureekadu-682 305

Ph: 8547431427

..... **Applicant**

(By Advocate : Mr.Soori M.B)

V e r s u s

1. Union of India, represented by the
Secretary to Defence, 154 B, Wing Sena Bhawan
South Block, New Delhi – 110 011
2. Chief of Naval Staff
Integrated Headquarters
Ministry of Defence (Navy)
Directorate of Civilian Personnel
Sena Bhawan, New Delhi – 110 011
3. The Flag Officer Commanding-in-Chief
(for CSO (P&A))
Headquarters Southern Naval Command,
Naval Base, Kochi – 04

4. The Chief Staff Officer
Southern Naval Command
Kochi – 682 004

5. The Admiral Superintendent, NSRY(K)
Headquarters Southern Naval Command
Kochi – 682 004

..... **Respondents**

(By Advocate : Mr.Anil Prasad,ACGSC)

This application having been heard on 18.6.2020 the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Hon'ble Mr. P.Madhavan, Judicial Member –

Heard the matter through video conferencing. The applicant is presently working as *Master Craftsman (Electronics)* in Naval Ship Repair Yard, Kochi. Applicant is aggrieved by Annexures A-1 order passed by the 3rd respondent, by which the applicant is promoted and transferred to INA Ezhimala, despite his unwillingness. Applicant is suffering from bronchial adenoma and undergone pneumonectomy at Sree Chitra Medical Institute, Trivandrum . Hence, he submitted his unwillingness along with representation. Same was rejected vide Annexure A-3. Applicant submits that transfer on promotion granted to the applicant despite his unwillingness is contrary to the Recruitment Rules. He prays for the following reliefs:

“(i) Call for the records leading to the issue of Annexure A1, A2 and A3 and quash the same so far as it relates to the applicant.

(ii) Direct the respondents to allow the applicant to continue at NSRY Kochi as if A1 to A3 orders relates to the applicant had not been issued at all

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(iii) Direct the respondents to consider the applicant to the post of Chargeman (Plater) at NSRY Kochi and post the applicant as Chargeman (Plater) at NSRY Kochi as if A1 to A3 order relating to the applicant had not been issued at all,

(iv) Award costs of and incidental to this application. ”

2. When the matter came up for consideration, the counsel for the applicant submitted the serious illness of the applicant. It is submitted that the applicant is promoted and posted at INA Ezhimala as *Chargeman* and he has personal difficulties in joining there. But the learned counsel for respondents submitted that INA Ezhimala is having shortage of *Chargeman* staff and they require people on promotion.

3. We have heard both sides and perused the pleadings. Since this is a matter of transfer where the Tribunal’s power is very limited, we deem it proper to direct the applicant to give a representation to the competent authority detailing his grievances and illness within one week from the date of this order and the competent authority will consider the representation in the light of relevant rules and regulations and pass a reasoned and speaking order within a period of two weeks thereafter. If the applicant is not relieved so far, he shall not be compelled to go to the new station before a speaking order is passed. No precipitate action shall be taken against the applicant in this context.

4. The Original Application is disposed of as above at the admission stage itself. No costs.

(K.V.EAPEN)
ADMINISTRATIVE MEMBER

(P.MADHAVAN)
JUDICIAL MEMBER

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List of Annexures

Annexure A-1 - True copy of the order No.CS 2760/25 dated 1.1.2019 issued from the office of the 4th respondent

Annexure A-2 - True copy of the order No.CS 2760/25 dated 20.2.2020 issued from the office of the 4th respondent

Annexure A-3 - True copy of the order No.PA/03/5030/14 dated 10.6.2020, issued from the office of the 5th respondent

Annexure A-4 - True copy of the confirmation order of the appointment of the applicant dated 21.6.1991

Annexure A-5 - True copy of the representation dated 14.1.2019 submitted by the applicant before the 3rd respondent

Annexure A-6 - True copy of the representation dated 26.2.2020 submitted by the applicant before the 3rd respondent

Annexure A-7 - True copy of the transfer policy bearing No.CP(G)/2601/Transfer Policy, dated 11.8.2015 issued from the office of the 2nd respondent

Annexure A-8 - True copy of the letter dated 25.6.2013 submitted by the applicant before the 3rd respondent

Annexure A-9 - True copy of the case summary and Discharge Record issued from the Sree Chitra Medical Institute, Trivandrum to the applicant

Annexure A-10 - True copy of the medical certificate issued from the Medical Trust Hospital dated 12.6.2020

Annexure A-11 - True copy of the medical certificate issued from the Medical Trust Hospital dated 25.7.2019

Annexure A-12 - True copy of the discharge summary issued from the Medical Trust Hospital, Ernakulam.

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