

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00089/2020

Date of Order: This, the 09th day of March 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)



MES No. 244228
 Shri Bir Kumar
 Son of Late Ram Deo Ram
 Refrigerator Mechanic (Skilled)
 Office of the Garrison Engineer Silchar
 Division, Military Engineer Service
 Pin – 900380, C/O 99 APO.

...Applicant

By Advocates: Sri Adil Ahmed, D. Goswami, A. Theyo
 And L. Kiba

-Versus-

1. The Union of India
 Represented by the Secretary
 To the Government of India
 Ministry of Defence, South Block
 New Delhi – 110011.
2. The Commander Works Engineer
 Headquarters, 137 Works Engineers
 Pin – 914137, C/O 99 APO.
3. The Garrison Engineer
 Silchar Military Engineer Service
 Pin – 900380, C/O 99 APO.

...Respondents

O R D E R (ORAL)

MANJULA DAS, MEMBER (J):-

On being mentioned by Sri Adil Ahmed, learned counsel for the applicant, this O.A. has been taken up today.



2. This is a second round of litigation. On earlier round, the applicant approached this Tribunal vide O.A. No. 040/00394/2018 with a prayer for a direction upon the respondent No. 2 to consider his case for posting/transfer to Dimapur/Zakhama preferably Dimapur on Compassionate grounds in view of the existing vacancies therein. This Tribunal after hearing both the parties, disposed of the said O.A. vide its order dated 27.11.2018 and passed the following order:-

“10. Since this is an issue of transfer only on compassionate ground, as such, by accepting the prayer made by the learned counsel for the parties, without going to the merit of the case as well as without issuing notice to the respondents, I direct the respondents to dispose of the last pending representation dated 19.07.2018 and consider the case of the applicant favourably, subject to the availability of vacancies as prayed by the applicant in the present O.A., within a period of three months from the date of receipt copy of this order.

11. It is made clear that, whatever decision to be arrived by the Respondent Authorities, shall be reasoned and speaking and shall be communicated to the Applicant forthwith.”

3. In compliance with the order of this Tribunal dated 27.11.2018, the respondent authorities more particularly respondent No. 2 has passed the impugned order dated 09.03.2019 thereby rejecting the case of the applicant for posting on compassionate ground. Being aggrieved with the said impugned order dated 09.03.2019, the present O.A. has been preferred by the applicant seeking the following reliefs:-



- 8.1 To set aside and quash the impugned rejection order No. 1015/OA-394/2018/10/E1Legal dated 09.03.2019 issued by the Respondent No. 2;
- 8.2 To direct the Respondents particularly No. 2 to issue Transfer/Posting order the applicant immediately from the office of the Garrison Engineer, Silchar to office of the Garrison Engineer 868 EWS Dimapur in the available vacant post of Refrigerator/Mechanic (Skilled) as disclosed through the RTI information dated 21.08.2019 by the CPIO for CWE 137, C/O 99 APO.
- 8.3 To pass any other appropriate relief (s) as may be deemed fit and proper by the Hon'ble Tribunal.
- 8.4 To pay the cost of the application."

4. Sri Adil Ahmed, learned counsel appearing on behalf of the applicant has drawn our attention to the Annexure-8 to the O.A. and submits that on being RTI application made by one incumbent namely Purabi Saikia about the strength of Industrial Staff as on 20.08.2019, the same has been supplied by the Chief

Public Information Officer wherfrom it has clearly seen that as on 20.08.2019, there are 07 Nos. of posts of Refrigerator Mechanic (Skilled) in the office of the GE 868 EWS and out of 07 Nos., 4 Nos. of persons are working and 03 posts are lying vacant. He also pointed out that as per said RTI reply; there are 03 Nos. of authorised posts of Refrigerator Mechanic (Skilled) at the office of AGE (I) Zakhama, 1 person is working against the same and 02 posts are lying vacant there at AGE (I) Zakhama.



5. Sri Ahmed further submitted that after the passing of order dated 27.11.2018 in O.A. No. 040/00394/2018, the respondent No. 2 has approved the posting of one incumbent i.e. MES-244395 Miss Ratna Bhowmick from AGE (I) (AF) Kumbhirgram to GE 868 EWS. According to Sri Ahmed, applicant is continuously suffering from intermittent right flank for last 02 years and has probable right upper ureteric stricture and under medical supervision of Christian Institute of Health Science & Research, Dimapur, Nagaland. Apart from this, his old aged mother staying along at Dimapur is also suffering from severe pain in L-4, L-5 and S-1 discs in her spinal chord since 2015. She is also under regular

medical treatment at Dimapur, District Hospital, Nagaland and Christian Institute of Health Sciences and Research, Dimapur, Nagaland. In view of that, his posting from the office of the Garrison Engineer, Silchar to the office of Garrison Engineer 868 EWS, Dimapur on Extreme Compassionate Ground is genuine and deserves to be considered. However, the case of the applicant has not been considered for the reasons best known to them.



6. I have heard the learned counsel for the applicant, perused the pleadings and documents enclosed there in the O.A. I have also gone through the judgment and order of this Tribunal (supra). I do not understand on what circumstances, the case of the applicant could not be considered despite the case of another similarly situated person was considered. I also found it difficult to understand why the case of the applicant for compassionate ground could not be considered inspite of clear direction of this Tribunal (supra) as well as despite there are vacancies.

7. Since this is an issue of transfer only on compassionate ground, in the interest of justice, without

going into the merit of the case, I prefer to render a direction upon the respondent authorities to consider the case of the applicant favourably once again. Accordingly, I direct the respondents to consider the case of the applicant by transferring/posting him at GE 868 EWS, subject to the availability of vacancy, keeping in view of the health condition of the applicant as well as health condition of his aged ailing mother. The said exercise shall be completed by the respondents within a period of two months' from the date of receipt of copy of this order.



8. With the above directions, the O.A. stands disposed of accordingly at the admission stage. No order as to costs.

**(MANJULA DAS)
MEMBER (J)**

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