

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 040/00298/2019

Date of Decision: 12.09.2019

THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER

Shri Nirmal Kanti Mitra
Superintendent
Office of the Assistant Commissioner
Central Goods and Services Tax (CGST)
Dibrugarh Audit Circle-II
Mandir Path, Boiragimath, Dibrugarh- 786003

.....Applicant

By advocate(s):Dr J. L. Sarkar
Sri G. J. Sharma

-AND-

1. The Union of India
Represented by the Secretary to the Government of India
Department of Revenue
Ministry of Finance, New Delhi – 110001.
2. The Chairman
Central Board of Indirect Taxes and Customs
Ministry of Finance
Department of Revenue
North Block, New Delhi – 110001.
3. The Chief Commissioner
Customs, Central Excise and CGST, Guwahati Zone
GST Bhawan, Kedar Road, Guwahati – 781001.
4. Commissioner (Audit)
CGST (Audit) Commissionerate, Guwahati
GST Bhawan, Kedar Road, Guwahati – 781001.

5. Assistant Commissioner (Admn)
 Office of the Commissioner
 CGST (Audit) Commissionerate, Guwahati
 GST Bhawan, Kedar Road, Guwahati – 781001.

.....Respondents

By advocate: Sri R. Hazarika, Addl. CGSC

ORDER (ORAL)

N. NEIHSIAL, ADMINISTRATIVE MEMBER:

The instant O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

- “8.1 That the Hon’ble Tribunal be pleased to set aside and quash the impugned Establishment Order No. 01/2019 dated 06.09.2019 (Annexure- A1) so far the applicant is concerned.
- 8.2 That the Hon’ble Tribunal be pleased to direct the respondents to consider transfer of the applicant at Dibrugarh in modification of impugned Establishment Order No. 01/2019 dated 06.09.2019 (Annexure-A1) so far the applicant is concerned.
- 8.3 Any other relief or reliefs as the Hon’ble Tribunal may deem fit and proper, including the cost of the case.

2. Dr J. L. Sarkar, learned counsel for the applicant submitted that the applicant is presently working as Superintendent of Central Goods & Service and now posted at Dibrugarh Audit Circle-II, Dibrugarh and will be retired on superannuation on 31.01.2022, as such he has left only two years four months of service in his credit. Vide impugned establishment order No. 01/2019 dated 06.09.2019

(Annexure –A1 in the O.A.) the applicant sought to be transferred from Dibrugarh Circle – 2 to Technical (HQRTS), Guwahati. According to learned counsel the said impugned order has been issued in the middle of academic session of the applicant's younger son who is in Class IX at Dibrugarh and has undergone open heart surgery in 2005. The elder son of the applicant is suffering from Thalassemia who requires frequent medical check-up and blood transfusion under consultation with the Assam medical College and Hospital, Dibrugarh.

3. Learned counsel further submitted that the Government of India, DOPT has issued O.M. F.No. 42011/3/2014-Estt (Res) dated 08.10.2018 for exemption from the routine exercise of transfer/rotational transfer. The said O.M. dated 08.10.2018 has been issued in terms of Rights of Persons with Disabilities Act, 2016 wherein it is stated that "Thalassemia" is included in the list of "Special Disabilities". As such, the applicant is entitled to be exempted from the routine exercise of transfer/rotational transfer in terms of the said O.M. dated 08.10.2018.

4. Learned counsel further submitted that against the impugned transfer order dated 06.09.2019, the applicant made a representation dated 09.09.2019 addressed to the respondent No. 4 with the request to consider his case and to retain himself at

Dibrugarh which is still pending. Accordingly he prayed that atleast the said representation dated 09.09.2019 may be disposed of and till disposal of the said representation the applicant may not be disturbed from his present place where Sri R. Hazarika, learned Addl. CGSC also has the same suggestion to dispose of the said representation dated 09.09.2019.

5. I have heard learned counsel for the applicant, perused the papers and documents produced before me. Keeping in view of the representation pending, without going into the merit of the case as well as without issuing notice to the respondents, I found that it is a fit case to direct the appropriate authority to consider the pending representation dated 09.09.2019 and dispose of it and pass a reasoned and speaking order within a reasonable period of one month from today. Till such time, the impugned Establishment order No. 01/2019 dated 06.09.2019 so far the applicant is concerned, shall not be given effect to. Order accordingly.

6. With the above directions O.A. stands disposed of at the admission stage itself. No order as to costs.

**(N. NEIHSIAL)
MEMBER (A)**