

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI

Original Application No. 370 of 2016

Date of Order: This the 21<sup>st</sup> Day of September, 2017**HON'BLE MOHD HALEEM KHAN, ADMINISTRATIVE MEMBER****HON'BLE MR.S.N.TERDAL, JUDICIAL MEMBER**

Sri Jagadish Barman

Son of Late Rupcharan Barman

Assistant Secretary, Regional office

Central Board of Scondary Education,

Panjabari, Guwahati-781037

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Applicant

By Advocate Dr.J.L.Sarkar

-Vs-

1. The Union of India  
Through the Secretary to the Government of India,  
Central Board of Secondary Education  
(Ministry of Human Resource and Development,  
Government of India)  
2 Community Centre, Preet Vihar,  
Delhi-1103012.
2. The Central Board of Secondary Education  
Through it's Chairman,  
2 Community Centre, Preet Vihar,  
Delhi-1103012.
3. Secretary,  
Central Board of Secondary Education,  
Shiksha Kendra, 2 Community Centre  
Preet Vihar, Delhi-110092
4. Deputy Secretary (A&L)  
Central Board of Secondary Education,  
Shiksha Kendra, 2 Community Centre  
Preet Vihar, Delhi-110092

5. Regional officer,  
Central Board of Secondary Education  
Panjabari, Guwahati-781037

Respondents.

By Advocate Mr.K.Agarwal, Sr.Advocate

### **ORDER (ORAL)**

#### **Per Hon'ble Mr.S.N.Terdal:-**

This O.A. is filed seeking the relief of setting aside the transfer order bearing No.CBSE/Admission Cell/3(6)/2016/8706-8806 dated 15.9.2016 and for a direction to the Respondents to allow the Applicant to continue in Regional Office, Guwahati.

2. Heard, Dr.J.L.Sarkar, learned counsel for the Applicant and Mr.K.Agarwal, learned Sr. Counsel for the Respondents, perused the pleadings and the documents produced by both sides.

3. The brief facts of the case are that the Applicant was initially appointed as Section Officer,( Group 'B') in September, 2002 in the Regional office, Guwahati. He was promoted on 15.2.2011 as Assistant Secretary and posted in the same office. The Respondents issued impugned transfer order transferring the Applicant to the Regional office, Patna. The wife of the Applicant is working as a Lecturer in Humanities subject at Assam Textile Institute, Ambari, Guwahati. His

elder daughter is studying in Class VI and younger daughter is studying in KG and his wife is suffering from Pelvis inflammatory disease since 2014 and she is under treatment at Guwahati. The Applicant is a patient of chronic kidney disease and requires regular medications, diet restrictions. As such, attention of the family is required. That in view of policy of the Government stated in O.M.F.No.28034/9/2009-Estt.(A), dated 30.09.2009 regarding the posting of spouses in the same Station, the Applicant is entitled to be posted at Guwahati. On 19.9.2016 the Interim Stay was granted against the impugned transfer order dated 16.9.2016. The Respondents filed M.A.No.161 of 2016 seeking vacation of the Interim stay order. The Respondents also filed written statement contending mainly that the said Transfer Policy of posting the spouses in same Station dated 30.9.2009 is primarily applicable to Central Government employees and there is no automatic application of the said Policy to the Respondent Organization and to the Applicant and therefore, the Applicant cannot claim as of right that the said O.M. should be applied him. The Respondents further mainly contended that one Rajib Barua, who was also promoted as Assistant Secretary has been posted at Regional office Guwahati, vide order No.CBSE/Rectt.Cell/1(13)/2016/9008-9108 dated 15.9.2016 and he had

joined at Guwahati office on 22.9.2016. The said posting of Shri Rajib Baura was on the request of the said Rajib Barua. It is categorically stated by the Respondents that the said Rajib Barua was originally transferred to Chennai and as it was far away from Calcutta where his family resides, he requested for posting nearer the place where the family was residing. As such he was transferred to Guwahati at his request.

4. On the perusal of the Circular issued by the Respondents bearing No.Admn.1/3(8)/97/ dated 19.02.1997, it is crystal clear that the Respondents Organization has adopted all the rules of the Central Government, wherever, the rules of CBSE are either silent or ambiguous. The Respondents have not filed any rules of CBSE regarding Transfer Policy of Posting the spouses in the same Station. In the circumstances, in view of the Circular of the Respondents dated 19.2.1997, the Transfer Policy of the Central Government dated 30.9.2009 is squarely applicable to the Applicant. On the perusal of original file of said Rajib Barua, which was produced by the Respondents as directed by this Tribunal, it is clear that the said Rajib Barua never requested for posting him at Guwahati. He had requested

for posting at Bhubaneswar or to Calcutta or to Patna, by his Email dated 5.8.2016. From perusal of the original file, it seems as though that the posting of the said Rajib Barua to Guwahati by order dated 15.9.2016 is being passed only to deprive the Applicant from being continued Guwahati.

5. In the circumstances, we are of the opinion that the impugned transfer order dated 15.9.2016 transferring the Applicant is required to be set aside and in view of the said Transfer Policy of Posting the spouses of the same Station dated 30.9.2009 the Applicant is entitled to be continued in Guwahati.

6. In the result, O. A. is allowed. No order as to costs.

7. In view of the order passed in O.A., the M.A. is disposed of accordingly.

(S.N.TERDAL)  
MEMBER(J)

(MOHD HALEEM KHAN)  
MEMBER(A)

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