

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00397/2019

Date of Order: This, the 26th Day of November, 2019.

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Sri Ujjal Das
S/o Late Gopi Nath Das
Village: BamunBari
P.O: Sorupeta
Dist: Barpeta (Assam)
PIN: 781 352

...Applicant.

By Advocate: Sri Kankan Das

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Central Public Works Departments(CPWD)
Ground Floor, A – Wing, Nirman Bhawan
New Delhi – 110 011.
2. The Special Director General (PRK)
Department of Central Public Works Department
CPWD, Nizam Palace, Kolkata, PIN: 700 020.
3. The Chief Engineer, Guwahati Department
Of Central Public Works Department (CPWD)
Guwahati-781 035.
4. Executive Engineer
Guwahati Electric Division-1 (GED-1)
Department of Central Public Works Department

(CPWD), Guwahati-781 021.

... Respondents

By Advocate: None

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

On being mentioned by Sri Kankan Das, learned counsel for the applicant the matter is taken up for consideration.

2. By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant is seeking following relief(s):-

“8.1 Quash and set aside the impugned transfer order no.47 of 2019/CE (Works Cum TLQA) in respect to the petitioner issued vide file No.21(9)/MTS/DDG(HQ)/ER/2019/924 dated 22.11.2019 [Annexure-A/1] and grant all the consequential benefits.

8.2 Cost of the application.

8.3 pass any such order/orders as Your Lordships may deem fit and proper.”

3. The facts, in brief, are that the applicant is working as MTS in the office of Guwahati Electrical Division, CPWD Office,

He is aggrieved by his transfer from Guwahati Electrical Division-I, Guwahati to the office of SE Cum PD IIM, Shillong against which he has already submitted a representation on 23.11.2019. The main grounds challenging his transfer is that applicant's daughter is studying in Class-XII and her academic session is going on and his transfer in the midst of academic session will adversely affect her education. Applicant has annexed the transfer guidelines of the Department as Annexure A/3 of the OA, para 12.5(iii) of which specifies as under:-

“The transfer orders should normally be issued in the month of March/April so that the officers can move before commencement of the academic year.”

Note (ii) of 12.5 (vi) of the said guidelines also stipulates as under:-

“(ii) Educational grounds shall constituted child studying in class-12th only.”

According to the learned counsel, the transfer of the applicant has been issued in violation of the aforesaid guidelines. Applicant has also contended that his mother aged 80 years is suffering ailments and he will not be able to take care of his mother if he is transferred to Shillong.

4. During the course of argument, Sri Kankan Das, learned counsel for the applicant prayed that the respondents may be directed to treat this OA as a comprehensive representation and to consider the same in the light decision of the Hon'ble Supreme Court in the case of **Director of School Education, Madras & Ors. vs. O. Karuppa Thevan, 1994 Supp (2) SCC 666** within a time frame. Learned counsel further prays for protection from this court till such consideration. Learned counsel further submits that he has not yet been relieved and presently he is on leave.

5. In the case of **O. Karuppa Thevan** (supra), the Hon'ble Supreme Court has held as under:-

“Transfer of an employee during mid-academic term is not proper unless exigencies of service are urgent for making such transfer.”

We have accepted the prayer of the applicant. Accordingly, applicant is directed to produce the copy of this OA before the respondents/competent authority within a period of fifteen days from the date of receipt of this order. On receipt of the copy of the OA, the respondents/competent authority shall

consider and dispose of the same within a period of two months from the date of receipt of this order. Till the order to be passed by the respondents is communicated to the applicant, he shall not be disturbed from his present place of posting at Guwahati if he has not already been relieved.

6. The OA is, accordingly, disposed of at the admission stage itself. No costs.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

/BB/