

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/01677/2019

Date of order: 23.12.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Tushar Kanti Das,
Son of Late Monomohon Das,
Aged about 49 years,
Present resident of 15/2, A.K. Mukherjee Road,
Kolkata - 700 090,
Permanent resident of Village - Uttarchakbhabani,
P.O. - Beltala Park,
District - Dakshin Dinajpur,
Pin Code - 733 103.

..... Applicant.

Versus

1. The Union of India,
Service through the Secretary
To the Government of India,
Ministry of Home Affairs,
Intelligence Bureau,
North Block,
New Delhi - 110 001.
2. The Director,
Intelligence Bureau,
Government of India,
35, Sardar Patel Marg,
New Delhi - 110 021.
3. The Joint Director (E),
Intelligence Bureau,
Government of India,
35, Sardar Patel Marg,
New Delhi - 110 021.
4. The Assistant Director,
Subsidiary Intelligence Bureau,
Government of India,
9/1, Gariahat Road,
Kolkata - 700019.

..... Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. S. Paul, Counsel



ORDER (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

Challenging his order of transfer dated 27.3.2019 whereby the applicant was transferred from EZRTC, Kolkata to SIB Gangtok, the applicant has approached the Tribunal praying for the following relief:-

"A) Order of Transfer being No. 6/C-6/2019(2)-1613 dated 24.10.2019, Office Order being No. 626 (Estt)/2019 dated 24.10.2019 and Office Order being No. 741 (Estt.)/2019 dated 10.12.2019 issued by the respondent No. 4 are not sustainable in the eye of law and as such the same may be quashed.

B) An order do issue directing the respondents to consider the representation dated 30.10.2019 preferred by the applicant at an earliest and to allow him to perform at his present place of posting under respondent No. 4 at Kolkata.

C) Such further Order/Orders and/or direction/directions as your lordships deem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. The matter is taken up at the admission stage for disposal.

3. Ld. Counsel for the applicant would submit that the applicant was transferred from EZRTC, Kolkata to SIB, Gangtok vide orders dated 27.3.2019 (Annexure A-1 to the O.A.) and had represented on 30.12.2019 praying for cancellation of his transfer orders and for retention at EZRTC, Kolkata primarily on the ground that wife is physically handicapped, suffering from rheumatic arthritis and Proximal myopathy, and, that, his twin sons are also affected by myopathic syndrome. In support, the applicant has furnished a disability certificate which declares his wife as suffering from muscular dystrophy, the nature of disability being "myopathy".

Ld. Counsel for the applicant would also refer to a circular of DOP&T dated 8.10.2018 and, particularly, would highlight Paras 3(ii) of the same wherein loco motor disability including muscular dystrophy has been noted as one of the grounds for exemption from the routine exercise of transfer/rotational transfer. Ld. Counsel would further urge



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that the circular also applies to those government employees who are care-givers of dependant family members suffering from any such specified disability.

4. Ld. Counsel for the respondents would vociferously object to the contention of the applicant by arguing as follows:-

(i) That, the applicant was integrated from SSB and has thereafter been inducted in SIB.

(ii) His IB/SIB wise postings since 1994, namely, his year of joining service, shows that the applicant was variously posted at Barasat, Jamnagar, Darjeeling, Bomdila, Patna, Purnia, SSB Kolkata and SIB Kolkata.

(iii) That, although his spouse had obtained a disability certificate in 2010, the applicant was posted in Bomdila and Patna in 2010 had never cited the disability of his wife as a ground for exemption from such routine transfer.

(iv) That, the disability certificate of his spouse states that she can travel without any assistance or escort.

5. Ld. Counsel for the applicant would agitate that since the circular of DOP&T was issued only on 8.10.2018, the applicant had no scope of relying on the applicability of the same during his earlier tenure.

6. Both the Ld. Counsel, however, would agree that this O.A. may be disposed of with a direction on the competent respondent authority to accord a personal hearing to the applicant and to dispose of his pending representation.

7. Hence, without entering into the merits of the matter, and, with the consent of the parties, we direct the competent respondent authority to accord a personal hearing to the applicant, examine the documents cited in support and decide in terms of extant rules and DOP&T circular dated



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8.1.2018, and convey his decision to the applicant in the form of a reasoned and speaking order.

The entire exercise may be completed within a period of 10 weeks from the date of receipt of a copy of this order.

Till such time the representation is disposed of, in case the applicant is yet to be relieved from his earlier place of posting, the respondents may not take any coercive steps against the applicant.

8. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP

