

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

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No. O.A. 351/00204/2020

Date of order: 17.2.2020

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

Smti. Babita Pandey,
Head Constable RO (VHF) 211,
W/o. Shri Rajnish Pandey,
R/o. Shadipur Village,
Under Port Blair Tehsil,
South Andaman District.

... Applicant

VERSUS -

1. Union of India,
Through the Secretary,
M/o. Home Affairs,
Govt. of India,
New Delhi – 110 001.
2. The Hon'ble Lieutenant Governor,
Raj Niwas,
Port Blair – 744 101.
3. The Director General of Police,
Office of the Director General of Police,
Andaman & Nicobar Islands,
Port Blair – 744 101.
4. The Superintendent of Police (Com.),
Office of the Police Radio Officer,
Andaman & Nicobar Islands,
Port Blair – 744 101.
5. The Deputy Superintendent of Police,
Office of the Police Radio Officer,
Andaman & Nicobar Islands,
Port Blair – 744 103.

... Respondents

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : Mr. R. Halder, Counsel



O R D E R (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985:

- "(a) An order do issue quashing the Order Book No. 529 dated 17.7.2019 issued by the Superintendent of Police (Communication), Andaman and Nicobar Islands; along with Order Book No. 601 dated 10.8.2019.
- (b) An Order do issue Quashing the Memo No. 64 dated 17.1.2020 issued by Deputy Superintendent, Police Radio, Andaman & Nicobar Islands, Port Blair.
- (c) Any other and/or further order as this Hon'ble Tribunal feel it proper in the fact and circumstances of the case narrated hereinabove."

2. Heard rival contentions of both ld. Counsel, examined documents on record. The matter is taken up for disposal at admission stage.

3. Ld. Counsel for the applicant would submit that she was appointed as a Police Constable Radio Operator on 3.8.2007. The applicant is 40% disabled as certified by the Medical Superintendent, G.B. Pant Hospital, Port Blair.



Vide orders dated 17.7.2019 (Annexure A-4 to the O.A.), however, the applicant was transferred to Police Radio Car Nicobar from Police Radio (HQ), Port Blair. The applicant represented on 19.7.2019 (Annexure A-5 to the O.A.) against such transfer orders and the respondent authorities, thereafter, kept the transfer order of the applicant in abeyance for a period of six months till 17.1.2020. The applicant's spouse, thereafter, represented on 26.12.2019 (Annexure A-7 to the O.A.) which was regretted by the respondent authorities vide their memo dated 17.1.2020 (Annexure A-8 to the O.A.).

Ld. Counsel for the applicant would agitate that the transfer order not only violates the transfer policy of respondent administration but is also in disregard to the Rights of Persons with Disabilities Act, 2016. In particular, the provisions of circular No. 55-3/2007-PW dated 30.7.2007 of the respondent administration read with DOP&T circular dated

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31.3.2014 which intends to provide certain facilities with respect to PWDs, have been deliberately ignored in transferring the applicant out of Port Blair, and, accordingly, the applicant has approached this Tribunal praying for judicial intervention in quashing the transfer order dated 17.7.2019 as well as the regret memo of the respondents' dated 17.1.2020.

4. Per contra, Ld. Counsel for the respondents would controvert the claims of the applicant by stating as follows:-

- (i) That, the applicant was initially appointed as LPC RO/(VHF) on compassionate ground and promoted as HC (VHF Operator). She continued to remain posted at Port Blair for nearly 6^{1/2} years since her appointment in January, 2007.
- (ii) The applicant opted for choice posting to Police Radio Campbell Bay as her husband was stationed therein and remained there from 4.8.2013 to 8.3.2015 for 1^{1/2} years.
- (iii) The applicant returned to Port Blair where she continued to function from 9.3.2015 to 17.1.2020, namely, for four years and 10 months.
- (iv) The contention of the applicant, that, being a physically challenged lady with 40% disability, she is unable to travel to Car Nicobar is refuted by her choice posting at Campbell Bay which is far from Port Blair and wherein she had continued to discharge her duties for 1^{1/2} years.
- (v) The applicant had represented against the transfer order on 19.7.2019 stating that she is totally dependent on her husband for long distance travel and that she cannot avail of long ship journeys as well as Helicopter journeys. Hence, she had sought the benefit of DOP&T Office Memorandum dated 31.3.2014 and circular dated



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30.7.2007 on grounds of her physical challenges. The respondent authorities, in consideration thereof, had kept her transfer in abeyance for six months vide their orders dated 10.8.2019 (Annexure A-6 to the O.A.). The applicant did not initially react to such orders of the respondent authorities but only at the close of such extended period, her spouse represented on the plea that Radio Operators posted at Nicobar District would be compelled to function at Out Post/Look Out Post duties which his wife cannot perform on grounds of physical disability. The respondents would argue that such averments are baseless as because no female staff of police unit are sent to Out Post or Look Out Post duties by the administration.

(vi) The respondent authorities would also argue that although the circulars referred to by the applicant provides for consideration, they have not mandated the PWDs as totally exempt from transfer.

(vii) Ld. Counsel would further contend that the applicant has already been relieved from her Port Blair position on 17.1.2020 and would furnish the General Diary of the Administration in support.

5. Ld. Counsel for the applicant, while admitting the fact that the applicant has been relieved, would submit that she may be given liberty to prefer a comprehensive representation citing circulars in her support which the respondent authorities may be directed to dispose of in a time bound manner.

6. Accordingly, without entering into the merits of the matter, we hereby accord liberty to the applicant to prefer a comprehensive representation to the concerned respondent authority, citing circulars in her support, within a period of three weeks from the date of receipt of a

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copy of this order failing which the authorities are at liberty to take action as per law.

In the event such representation is received, the concerned respondent authority shall examine the applicability of the circulars with reference to the applicant, and, thereafter, issue a speaking and reasoned order within a further period of 8 weeks thereafter.

Till such time the representation is disposed of, the respondents may not take any coercive steps against the applicant to compel her to join her transferred place of posting.

As the applicant has admittedly been relieved, her tenure in the interregnum period will hereafter be regularized by the respondent authorities in accordance with law.

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



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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