



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.062/330/2020

Date of decision: 03.6.2020

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A).**

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Dr. Rabiya Bano (age 51 years) W/o Dr. Abdul Jalil, R/o Kargil
(Present posting Medical Officer, DH Kargil).
(Rabiabano9737@gmail.com)(91 94193-34456).

...APPLICANT

BY: MOHD. IQBAL DAR, COUNSEL FOR THE APPLICANT.

VERSUS

1. Union Territory of Ladakh through Commissioner/Secretary, Health & Medical Education Department, Ladakh (comsecyutadakh@gmail.com).
2. Chief Executive Councilor, Ladakh Autonomous Hill Development Council, Kargil (cechckgl-jk@nic.in)
3. Deputy Commissioner (Chief Executive Officer, Ladakh Autonomous Hill Development Council), Kargil (dckgl-jk@nic.in)
4. Director, Health Services, Ladakh (DHSLadakh@gmail.com).
5. Chief Medical Officer, Kargil (Cmokgl@gmail.com).
6. Medical Superintendent, District Hospital, Kargil (msdhk2014@gmail.com).

...RESPONDENTS



ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

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1. The O.A. was received through e-mail during Covid-19 pandemic and heard through video conferencing with the consent of learned counsel for the applicant.
2. Dr. Rabiya Bano, a Medical Officer, is before this Court, by of the present O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, for invalidation of impugned order dated 23.5.2020 (Annexure A-1), whereby she has been transferred from DH Kargil to CHC Padum Zanskar.
3. Heard learned counsel for the applicant who argued that the applicant joined the respondent department after being selected by Jammu and Kashmir Public Service Commission as Medical Officer in the year 2005 and was posted at CHC Padum Zanskar where she continued till 6.6.2006. Thereafter, she was transferred to somewhere else. Again, she was posted at CHC Padum Zanskar in the year 2013 and remained there till 2016. Thereafter, she was transferred to Kargil vide order dated 17.3.2016. A communication dated 17.11.2016 was addressed to Chief Medical Officer, Kargil by Deputy Commissioner/CEO, LAHDC, Kargil on the subject of "Shortage of Doctors at CHC Padum Zanskar and replacement of Ambulance of CHC Padum", pursuant to which the respondents have decided to transfer one Dr. Tsering Tashi, which was subsequently modified and one Dr. Nawang Chosdan, Medical Officer, was also posted and later on, his order was also



cancelled and he was posted at CHC Chiktan. He further submitted that vide impugned order, the respondents have decided to transfer applicant, her husband Dr. Abdul Jalil and Dr. Tsering Tashi to CHC Padum Zanskar. Against this, the applicant submitted a representation requesting respondents to cancel her transfer as couple had already served at Zanskar for a long period while other officers, who had not served at that place and have longer stay at Kargil, have not been chosen for transfer. They relied upon letter dated 17.11.2016 written by department wherein it was decided to recommend doctors with longer stay for transfer to CHC Padum Zanskar. While considering representation of the applicant as well as her husband, respondents modified order but cancelled transfer of husband of the applicant only leaving the applicant at lurch. Thus, she is before this Court for quashing of the impugned order.

4. Learned counsel for the applicant vehemently argued that impugned order is illegal, arbitrary and in colourable exercise of power by the respondents as they have passed it without taking into account that there are other doctors, who have not been posted out of Kargil, so they ought to have been transferred instead of applicant.
5. At this stage, learned counsel for the applicant submitted that let applicant move a representation against the impugned order, based on the policy issued by Govt. of J&K dated 28.10.2010, wherein it has been impressed that where both



husband and wife are in Government service, they may be posted conveniently, as far as possible, subject to availability of the post and keeping in view interest of administration as well, at the same place. The applicant will move a representation within three days by taking this ground apart from other available grounds and respondents may be directed to decide the same within ten days.

6. We have given our thoughtful consideration to the entire matter and we are of the view that ends of justice would be met if we accede to this limited request of the applicant. Therefore, it is directed that if applicant moves a representation within three days from today, then the respondents will consider and decide the same within ten days thereafter by passing a reasoned and speaking order. Order so passed be duly communicated to the applicant.
7. Disposal of the O.A. in the above terms may not be construed as an expression of any opinion on the merit of the case. No costs.

(AJANTA DAYALAN)
MEMBER (A)

Date: 03.6.2020.
Place: Chandigarh.

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(SANJEEV KAUSHIK)
MEMBER (J)