



**Central Administrative Tribunal  
Principal Bench, New Delhi**

O.A. No.995/2020

Tuesday, this the 22<sup>nd</sup> day of December, 2020

Through video conferencing

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Kritika Sharma (on leave)  
w/o Sh. Abhishek Anand  
Joint Secretary, UD & MA Deptt.  
Government of West Bengal  
Presently residing at  
r/o Nagar Ayukt Awas  
Civil Lines, Ramput Garden  
Bareilly – 243 001

....Applicant

(By Advocate: Mr. Animesh Kumar)

Versus

1. Union of India through its Secretary  
Ministry of Personnel, P G & Pension  
North Block, New Delhi – 110 001
2. State of West Bengal  
Through its Chief Secretary  
Govt. of West Bengal  
Nabanna, 7<sup>th</sup> Floor, Room No.708  
325, Sarat Chatterjee Road,  
Howrah, Kolkata – 711 102
3. State of Uttar Pradesh  
Through its Chief Secretary  
Govt. of Uttar Pradesh  
101, Lok Bhawan, UP Civil Secretariat  
Vidhan Sabha Marg,  
Lucknow – 226 001

..Respondents

(Mr. Ranjan Tyagi, Advocate for respondent No.1, Ms. MadhumitaBhattacharjee, Advocate for respondent No.2 – None for respondent No.3)



## **ORDER (ORAL)**

### **Justice Mr. L. Narasimha Reddy:**

The applicant is an IAS officer of 2014 batch and was allocated to West Bengal cadre. She married an IAS officer of Uttar Pradesh cadre, by name, Sri Abhishek Anand on 08.05.2015. Thereafter, she made a representation to the Central Government as well as Governments of Uttar Pradesh and West Bengal with a request to change her cadre. The State of Uttar Pradesh gave its “no objection certificate” on 08.07.2015. The State of West Bengal, however, addressed a letter dated 12.02.2016 rejecting the request of the applicant. The reason stated is that, there is an acute shortage of IAS officers in the State. It was also mentioned that if Sri Abhishek Anand, husband of the applicant, seeks transfer to State of West Bengal, they are ready to consider the same. This O.A. is filed challenging the said letter dated 12.02.2016.

2. The applicant contends that the reason mentioned by the State of West Bengal is unsustainable in law. It is stated that time and again, the Hon’ble Supreme Court, High Courts and this Tribunal have taken the view that shortage of officers can never be cited as a reason to reject the request of inter-cadre transfer on the ground of marriage. Reliance is placed on certain cases. Several other grounds are also urged.

3. Separate counter replies are filed behalf of respondent Nos.1 and 2. The respondent No.1 contends that after taking note of the



order of rejection dated 12.02.2016, the letter was addressed by the 28.09.2017 with a request to consider the cases of five women IAS officers of State of West Bengal cadre, including the applicant, for change of cadre and that no reply thereon has been received as yet.

4. In its counter affidavit, the State of West Bengal stated that the request of the applicant could not be acceded to on account of acute shortage of IAS officers.

5. Today, we heard Mr. Animesh Kumar, learned counsel for applicant, Mr. Ranjan Tyagi, learned counsel for respondent No.1 and Ms. Madhumita Chatterjee, learned counsel for respondent No.2, at length, through video conferencing. There is no representation for respondent No.3, State of Uttar Pradesh.

6. It is not uncommon that the officers of various Services of different cadres, including those of IAS, seek transfer to different establishments or cadres, in case they marry the officers of other cadres. The change of cadre or Department would, however, depend upon several factors. For IAS, the Government has framed its own policy. The Rule 5 (2) of the IAS (Cadre) Rules, 1954 provides for such transfer. At the relevant point of time, the applicant was one of the 5 women officers, who sought transfer and change of cadre on the ground of marriage. While the State of Uttar Pradesh, in whose cadre the husband of the applicant was working, gave its “no objection certificate” on 08.07.2015, the



State of West Bengal rejected the request of the applicant, through letter dated 12.02.2016. It reads:

*“Sub: Inter Cadre transfer of Ms. Kritika Sharma, IAS [WB:2014] - regarding*

*Sir,*

*I am directed to refer to your D.O. No. A-13017/47/2015-AIS-I, dated 22/01/2016 on the subject noted above and to state that after due consideration, the Govt. of West Bengal hereby regrets its inability to give its consent for the proposed cadre transfer of Ms. Kritika Sharma, IAS [WB:2014] from West Bengal Cadre to Uttar Pradesh Cadre due to an acute shortage of IAS officers in this State cadre viz a viz the sanctioned strength.*

*However, the State Govt. hereby proposes that if Shri Abhishek Anand, IAS [UP:2014], spouse of Ms. Kritika Sharma, IAS [WB:2014], requests for change of his cadre from Uttar Pradesh to West Bengal under Rule 5 (2) of the IAS Cadre Rules, 1954, then No-objection for his cadre change would be considered by the State Government.*

*This issues with the approval of the competent authority.”*

The only reason mentioned in the said letter is that there is an acute shortage of IAS officers in the State of West Bengal.

7. In quite large number of cases, the Hon'ble Supreme Court, High Courts and the Tribunal have taken the view that the shortage of officers cannot be cited as a reason for rejecting the request for change of cadre on account of marriage. Reference in this regard can be made to the decision of this Tribunal in **Dr. Adarsh Singh v. Union of India & others** (O.A. No.218/2010) decided on 29.10.2010. Recently, this Tribunal, in **Gandharva Rathore v. Union of India & others** (O.A. No.3579/2019) decided on 04.12.2020. It referred to various



judgments and has set aside the order of rejection. Direction was issued to reconsider the matter.

8. The Government of India addressed a letter 28.09.2017, which reads as under:-

*“As you are aware, five IAS officers of West Bengal cadre namely Ms. Nidhi, IAS (WB:2013), Ms. Reena Nirajan, IAS (WB:2013), Ms. Kritika Sharma, IAS (WB:2014), Ms. Lakshmi Bhavua Taneeru, IAS (WB:2015) and Ms. R. Alice Vaz, IAS (WB:2005) have sought transfer of cadre to AGMUT, Uttarakhand, Uttar Pradesh, Tamil Nadu and AGMUT respectively on grounds of marriage to members of All India Services. However, the Government of West Bengal has regretted grant of no objection for transfer of these officers. The details are annexed to this letter.*

*2. As per guidelines contained in this Department’s O.M. No.13017/16/2003 AIS-I dated 08.11.2004, All India Service officers who are married to All India Service officers are allowed to move to cadre of one of the spouses which they choose subject to the condition that the cadre is willing to accept the officer on transfer. This policy is made to ensure that the family of the AIS Officer is not disturbed and they are able to service in the same state.*

*3. In the cases mentioned above, the cadres to which these officers have sought transfer have already given their NOCs for cadre transfer on grounds of marriage except in respect of Ms. R. Alilce Vaz, IAS, in whose case NOC from the Ministry of Home Affairs is yet to be sought by this Department.*

*4. Taking into account the hardship currently being faces by these officers, I would request you to kindly reconsider the matter and issue “No objection” for inter cadre transfer of these five IAS officers.”*

9. It is relevant to mention that the State of West Bengal uniformly rejected the request of five women IAS officers for inter cadre transfer, including that of Ms. R Alice Vaz, IAS. The only differentiating factor was that the “No objection certificate” was



not issued by the State, to which Ms.Alice sought transfer, in the case of the applicant, it was given.

10. In case of Ms. R Alice Vaz, IAS, letter of consent was issued on 05.03.2018 by the State of West Bengal. The order does not mention any special reason for that. It is to be noted that in the letter of rejection of five women IAS officers, the only reason mentioned is about shortage of officers. Once the Government has acceded to the request of one of such officers, by name, Ms. R Alice Vaz, IAS, a differential treatment comes into existence in case of applicant. Added to that, the Central Government has impressed upon them that the shortage of officers cannot be a ground to deny the request for inter cadre transfer.

11. We, therefore, allow the O.A. and set aside the letter dated 12.02.2016. The respondent No.2, the State of West Bengal, is directed to consider the issue afresh in light of the judgments on the subject as well as letter dated 28.07.2019, within a period of six weeks from the date of receipt of a copy of this order. The fact that the request of Ms. R Alice Vaz, IAS was acceded to, shall also be taken into account.

There shall be no order as to costs.

**( Mohd. Jamshed )**  
**Member (A)**

**( Justice L. Narasimha Reddy )**  
**Chairman**

**December 22, 2020**  
**/sunil/vb/ankit/sd**