

(Reserved on 24.09.2020 for orders on interim relief)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

This the 28th day of September 2020

Present:

HON'BLE MRS JUSTICE VIJAY LAKSHMI, MEMBER-J.

HON'BLE MR. NAVIN TANDON, MEMBER-A

Original Application No. 330/00496/2020

Neerja Madhav

.....Applicant.

V E R S U S

Union of India and others.

..... Respondents

Present for the Applicants : Shri Shyamal Narain

Present for the Respondents : Shri L.P. Tiwari

ORDER ON INTERIM RELIEF

(Delivered by Hon'ble Mr. Navin Tandon, AM)

1. Through video conferencing.
2. The applicant and the respondents were represented by Sri Shyamal Narain and Sri L.P. Tiwari respectively through video conferencing.
3. The applicant is aggrieved that her request for posting at Varanasi has not been granted by the respondents and has been posted at Gorakhpur.
4. The applicant was working as Assistant Director (Programmes) at Akashwani, Rewa (MP), when she sought voluntary retirement w.e.f. 10.03.2018. However, within the notice period, she requested for withdrawal of application of voluntary retirement, but the same was rejected. She approached this Tribunal in OA 330/1079/2019, which was allowed vide orders dated 17.02.2020 and the respondents were directed to reinstate her in service.

5. She requested for posting at Varanasi for the reason that she has just about 2 years of service left, and her husband is Principal at a State aided college at Varanasi.

6. The respondents considered her request, but could not grant the same. Vide order dated 26.03.2020 posted her at Gorakhpur. Several representations/ correspondence later, she approached this Tribunal in OA 330/308/2020. This was disposed of on 29.07.2020 (Annexure A/16) by directing the respondents to consider her pending representations with a reasoned and speaking order.

7. The respondents have passed a detailed order dated 09.09.2020 (Annexure A/1) and rejected her request to be posted at Varanasi. She has been directed to report to Gorakhpur on or before 25.09.2020.

8. She has again approached this Tribunal through this OA praying for directions to be posted in Varanasi. As an interim relief, she has prayed for staying the impugned order dated 09.09.2020 (Annexure A/1) and restrain the respondents from compelling the applicant to join at AIR Gorakhpur.

9. Arguments were heard from both the parties on the prayer of interim relief.

10. Learned counsel for the applicant vehemently argued that there are various factors in favour of the applicant for being posted at Varanasi. Firstly, she has only about one and a half years of service left (date of superannuation 31.03.2022), there are vacancies in Varanasi and her husband is acting Principal in a State aided college at Sarnath, Varanasi. Further, DoPT's OM dated 30.09.2009 (Annexure A/15) has issued guidelines to keep husband and wife together at one place. He has further taken us through the impugned order para by para to show that the applicant could have been easily accommodated at Varanasi, and the respondents are not trying to help her.

11. Learned counsel for the respondents averred that the impugned order is a very detailed one and there is no ambiguity in it. He submitted that the interest of

the Organisation is more important than the employee. He also highlighted the fact that the organisation has always helped the applicant and she has remained at Varanasi for 24 years out of total service of 26 years. Now the respondent department requires her services at Gorakhpur, and she should join there by 25.09.2020 as directed in the order dated 09.09.2020.

12. We have heard rival contentions with patience and have given the matter a serious thought.

13. There are a catena of judgements of Hon'ble Supreme Court wherein Tribunals and Courts have been asked to eschew interfering into transfer/postings matters. These are best left to the Executive Departments to decide who should be posted where to achieve maximum results (See Union of India Vs. S.L. Abbas – 1993 AIR 2444, Mrs. Shilpi Bose and others Vs. State of Bihar and others – AIR 1991 SC 532).

14. The only times when the Tribunals and Courts can interfere in transfer matters is when the orders have been issued by an authority not competent to do so, the orders have been issued with malafide intent or the same are issued in violation of statutory guidelines. In the present case, the applicant has not been able to demonstrate that either of these things is true.

15. Learned counsel for the applicant did try to convince us that DoPT's OM dated 30.09.2009 has to be followed mandatorily in that if vacancies are there at the place where spouse is working, the employee has to be posted there. We have considered the matter and do not agree with the same. The interest of the Organisation will always be at a higher level than that of the employee.

16. In our considered opinion, the prayer for interim relief has no merit, and is, therefore, rejected.

17. Considering the fact that the matter has been heard on 24.09.2020, we direct the respondents to grant her time upto 01.10.2020 to carry out the orders

dated 09.09.2020.

18. Respondents are directed to file their parawise reply within 4 weeks and applicant may file rejoinder within 2 weeks thereafter.

19. List the matter for completion of pleadings in Registrar's Court on 26.11.2020.

(NAVIN TANDON)
MEMBER- ADMINISTRATIVE .

(JUSTICE VIJAY LAKSHMI)
MEMBER- JUDICIAL.

Rkm/