

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday, 21st day of July Two Thousand And Twenty

PRESENT:

THE HON'BLE SHRI S.N. TERDAL, MEMBER(J)
THE HON'BLE SHRI C.V. SANKAR, MEMBER(A)

O.A.310/353/2020

K. Djeacandane,
S/o. Krishnan,
Employed as M.T.S. (General),
I.C.D.S.-IV,
Directorate of Women and Child Development,
Government of Puducherry,
Puducherry-605 013.

.....Applicant

(By Advocate: Mr. M. Gnanasekar)

Vs.

- 1 The Secretary to Government
Department of Personnel and Administrative
Reforms (Personnel Wing),
Chief Secretariat, Beach Road,
Government of Puducherry,
Puducherry- 605 001;
2. The Programme Officer,
Directorate of Women and Child Development,
Government of Puducherry,
Puducherry-605 013.

...Respondents.

(By Advocate: Mr. R. Syed Mustafa)

O R D E R

(Pronounced by Hon'ble Mr. S.N. Terdal, Member(J))

Applicant has filed this OA seeking the following reliefs:-

- "i) to set aside the order passed by the respondent vide Memorandum No.A.22016/1/2020-DP&AR/GC/U.I dated 29.05.2020 and quash the same;
- ii) to set aside the order passed by the respondent vide Memorandum No. A.22016/1/2020-DP&AR/GC/U.I dated 27.02.2020 and quash the same;
- iii) to pass such further orders as are necessary to meet the ends of justice and
- iv) Award costs and thus render justice."

2. Heard Mr. M. Gnanasekar, Learned counsel for the applicant and we are unable to hear Mr. R. Syed Mustafa, Learned counsel appearing for the respondents though he has been served notice in advance.
3. Perused the OA and all the documents.
4. This is second round of litigation against the transfer order dated 27.2.2020. Applicant earlier filed O.A. 309/2020 challenging the said transfer order. The said OA was disposed

of by this Tribunal by order dated 13.3.2020 directing the respondents to consider the representation of the applicant and pass a reasoned and speaking order in the light of the relevant service rules. The respondents have now passed impugned order dated 29.05.2020 which is challenged in this OA with the facts and grounds stated in Paras -d & e are as under:-

"d. The applicant submits that the DoP&AR (Personnel Wing) while framing the guidelines for transfers of the Government Servants issued specifically certain guidelines to implement the transfer orders issued to the "Common Category Staff" as reads:-

1. Transfer/Posting orders issued by the Department of Personnel and Administrative Reforms (Personnel Wing) Shall be implemented within 15 days from the date of issue of the orders and the transferred official shall be relieved without waiting for substitute....

5. In order to ensure transparency, orders effecting transfer and postings, promotion, deputation, repatriation, service placement etc shall be hosted in the official Website of the Department of Personnel and Administrative Reforms (Personnel Wing).

e. The applicant submits that the above Guidelines/Transfer Policy was not followed during the transfer the Applicant from the Puducherry Region to Mahe Region. The Block Development Office is closely associated with the Public. The Public in Mahe Region speaks only "Mayalam Language". The Applicant states that he is not having knowledge of Mayalam Language. The Department of Personnel and Administrative Reforms (Personnel Wing) is a nodal Department to the other Departments/Boards/Corporations/Co-operative Societies/Autonomous Bodies under the control of the Union

Territory of Puducherry. The Common Control Department/Nodal Department itself violating the Norms/Guidelines while effecting the transfers to the staffs/officials under its controls is highly condemnable one, which causes injustice to the Staffs who were serving in the Common Category of the DoP&AR, Puducherry.

(2) 25% by absorption of male Home Guards who have put in at least 3 years of service as Home Guard.

Note: Daily rated employees/part-time employees working in Pondicherry/Karaikal/Mahe/Yanam region will be considered for absorption in the regular vacant post(s) of the particular region only based on their region-wise inter-se-seniority position in the respective category."

II. Sanitary Assistant:

"By absorption of daily employees with 2 years of continuous service failing which by absorption of part time employees with 4 years of continuous service and working in various Departments/ Offices of Government of Pondicherry in Pondicherry/Karaikal/Mahe/Yanam region performing the functions of watchman, Sanitary Assistant, Sanitary Helper and Gardner

Note: Daily rated employees/part-time employees working in Pondicherry/Karaikal/Mahe/Yanam region will be considered for absorption in the regular vacant post(s) of the particular region only based on their region-wise inter-se-seniority position in the respective category."

III. Sanitary Helper:

"By absorption of daily employees with 2 years of continuous service failing which by absorption of part time employees with 4 years of continuous service and working in various Departments/ Offices of Government of Pondicherry in Pondicherry/Karaikal/Mahe/Yanam region performing the functions of Watchman, Sanitary Assistant, Sanitary Helper and Gardner

Note: Daily rated employees/part-time employees working in Pondicherry/Karaikal/Mahe/Yanam region will be considered for absorption in the regular vacant post(s) of the particular

region only based on their region-wise inter-se-seniority position in the respective category."

5. Perused the impugned order dated 29.05.2020 which is extracted below:-

"NO.A.22016/1/2020-DP&AR/GC/U.T.
GOVERNMENT OF PUDUCHERRY,
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL WING)
Pondicherry, dated 29.05.2020

ORDER

Sub:- Public Services - Disposal of the representation submitted by Thiru K. Djeacandane, MTS (General)- Orders-issued.

Ref: (1) This Department's Memorandum No. A. 22016/1/2020-DP&AR/GC/U.I, dated 27.02.2020;
(2) Order passed in O.A.No. 309/2020, dated 13.03.2020 of the Hon'ble CAT Madras Bench, Chennai;
(3) Representation dated 20.03.2020 of Thiru K.Djeacandane, MTS (General), Registration Department, Puducherry.

WHEREAS Thiru K. Djeacandane, MTS (General) has filed OA No. 309/2020 before the Hon'ble Central Administrative Tribunal, Madras Bench, with a prayer to set aside the transfer order passed vide reference 1st cited and to quash the same;

AND WHEREAS the Hon'ble Central Administrative Tribunal, Madras Bench disposed the said O.A on 13.03.2020 with the following direction:-

"The applicant is permitted to make a comprehensive representation to the competent authority within a period of one week from today and the competent authority is directed to consider the applicant's representation on the basis of relevant rules and regulations and pass a speaking order at the earliest, not more than one month from the date of receipt of the representation. Till that time status quo in respect of the applicant shall be maintained and the relieving order dated 28.02.2020 shall be kept in abeyance and no punitive action shall be taken against the applicant."

AND WHEREAS in compliance with the above said directions of the Hon'ble Central Administrative Tribunal, the representation dated 20.03.2020 of Thiru K.Djeacandane, MTS (General) has been carefully examined. In the representation he has stated that the transfer order issued to him is not in accordance with the transfer policy framed by this department and requested to withdraw the transfer order issued on 27.02.2020 and allow him to serve in the present place itself as he is an office bearer of Service Association;

AND WHEREAS from the date of joining the Department of Women & Child Development, Puducherry complaints had been received against the said Thiru. K.Djeacandane, MTS (General). Two Criminal cases were also filed against him. He was placed under suspension for 270 days by the Director, Department of Women & Child Development for canvassing for the political party in the social media. Despite this, he is found to have not corrected himself and continues to indulge in misbehavior. Hence, it is felt not desirable to allow him in Puducherry and he has been transferred and posted in Mahe region so that it would sent a strong message that failure to maintain political neutrality by Govt. Servants and indulgence in misbehavior will not be tolerated by the Govt.;

AND WHEREAS his claim of holding position as an office bearer in a Service Association does not provide any immunity to him to indulge in misbehavior and political activities at this will in violation of the Conduct Rules. He cannot take refuge under certain provisions that extend some concessions to office bearers of recognized Associations to discharge their official as well as association duties, simultaneously to get his misdemeanor shielded.

AND WHEREAS the transfer policy relied upon by him is applicable under normal circumstances only and the transfer policy itself makes it very clear that the Competent

Authority may order transfer in relaxation of the policy in the exigencies of public services or for administrative reasons to be recorded in writing. Moreover, the transfer is an incidence of service and the Govt. has every right to post an employee anywhere and the employee is bound by the order;

AND WHEREAS the Secretary to Govt.(Personnel) after careful consideration of the facts and circumstances leading to transfer of Thiru K.Djeacandane, MTS (General) to Mahe and his representation dated 20.03.2020 has come to the conclusion that the transfer order issued to him is fully justified and it needs no reconsideration as the reasons adduced by him lacks merit;

NOW THEREFORE it is hereby ordered that the transfer order issued on 27.02.2020 shall be complied with by Thiru K.Djeacandane, MTS (General) immediately.

With this the representation dated 20.03.2020 stands disposed of.

(A.ANBARASU, I.A.S.)
SECRETARY TO GOVERNMENT (PERSONNEL)

TO:
Thiru. K.Djeacandane, MTS (General),
Department of Women & Child Development, Puducherry.
Registration Department, Puducherry.

//Through Proper Channel//

Copy to:-

1. Government Pleader for Govt. of Puducherry at CAT, Madras Bench, No. XI, High Court Chamber, Old Legal Aid Building, High Court Building, Chennai- 600 104;
2. The Director, Department of Women & Child Development, Puducherry
3. Office Order;
4. Spare

(JAISANKAR)
UNDER SECRETARY TO GOVERNMENT(DP&AR)

6. At the time of hearing, the main contention of the counsel for the applicant is that at present in view of the COVID-19

Pandemic, no transportation facility is available for complying with the transfer order.

7. We have considered the submissions of the counsel for the applicant.

8. We are of the view that the impugned order dated 29.05.2020 is a cogent, considered, reasoned and speaking order and does not require interference. Hence, the OA is dismissed.

9. However, the respondents are hereby directed that the transfer orders dated 27.02.2020 and 29.05.2020 shall be given effect to only when the public transport facilities are available. No costs.

(C.V. SANKAR)
MEMBER(A)

(S.N. TERDAL)
MEMBER(J)

21.07.2020

Asvs