

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/00217/2020**

**Dated the 02<sup>nd</sup> day of June Two Thousand Twenty**

**CORAM: HON'BLE MR. P. MADHAVAN, Member (J)  
HON'BLE MR. T. JACOB, Member (A)**

J.Anitha (MES No. 198948),  
Junior Engineer (Civil),  
O/o. Assistant Garrison Engineer (I),  
Trichy 620001.

....Applicant

By Advocate M/s. V. Vijay Shankar

Vs

1.The Union of India,  
rep by the Engineer in Chief,  
Army Head Quarters,  
New Delhi 110001.

2.The Chief Engineer,  
Head Quarters,  
Southern Command, Pune 411001.

3.The Chief Engineer (Chennai Zone),  
Island Grounds, Chennai 600002.

4.The Commander Works Engineer,  
Wellington, Nilgiris District.

5.The Assistant Garrison Engineer (I)  
Trichy 620018.

....Respondents

By Advocate Mr. M. Kishore Kumar

**ORDER**

**(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))**

Heard. The applicant has filed this OA seeking the following relief :

"To call for the records of the 1<sup>st</sup> respondent in its PO No. 57/2019 dated 15.10.2019, 132601/Sur-Defi-19/JE(Civil)/19/EIB(S)/A1(a) dated 19.12.2019 and 134601/J Anitha/C8/EIB (S)/A1(a) dated 06.02.2020 and quash the same in so far as the applicant is concerned and pass such other order or orders as may be deemed fit and thus render justice."

2. The applicant is working as Junior Engineer (Civil) in the Asst. Garrison Engineer Office, Trichy (R5). She joined the AGE Trichy in September 2015 from the Office of the Garrison Engineer Navy, Chennai. According to the applicant, she is having two small kids & she is staying along with her mother at Trichy. Her husband is working at Chennai.
3. The 1<sup>st</sup> respondent had issued an order of transfer on 15.10.2019 transferring her to Office of Garrison Engineer, Ahmednagar which is far away. As per the transfer policy applicable to Military Engineering Service, the female employees should not be transferred to far away places and should be posted within 80 km preferably if there is a station. Though the applicant had given representation stating her reasons and pointing out vacancies available nearby, it was not considered.
4. So the applicant filed OA 6/2020 challenging the order of transfer dt. 19.12.2019.
5. The respondents filed a short reply denying the allegations. According to the respondents, the transfer order was issued by R2. It is submitted that the AGE (I),

Trichy is going to be closed/disbanded and the office has to be closed by March 2020. According to them, the stations at Tambaram & Avadi are having surplus by 5 in JE (CIV) category & hence there are no vacancies there. According to them, Ahmednagar Complex is critically deficient & it is because of that the applicant was posted there. Smt. Subaitha, JE (Civil) was posted at Coimbatore since she is senior to the applicant.

6. The applicant had also filed a rejoinder stating that Bangalore Complex is also deficient, but she was not given a transfer.

7. We have heard both sides. We had also perused the pleadings & various annexures produced. On a reading of the transfer order dt. 15.10.2019 (A5), it is seen that out of the 28 persons transferred 14 are female employees. So, it cannot be said that the applicant is discriminated in any way by the respondents. On a perusal of pleadings, it is an admitted fact that the station AGE (I), Trichy is going to be dismantled & the surplus staff has to be accommodated in other stations. The posting modalities were issued on 12.07.2018 (A2) itself. Annexure A3 shows that consequent to the disbandment of AGE (I) Trichy, they had called for options from employees before ordering a transfer. The applicant had given her choice of station as Chennai, Tambaram and Avadi where there does not exist vacancies. The applicant ought to have given choices after verifying the existence of vacancies. Accordingly the applicant was given a transfer to G.E., Ahmednagar (A4). The applicant gave representation again as A6 giving her choice at Chennai station itself. The respondents rejected her request again on 19.12.2019. On filing of the

OA 6/2020, the Tribunal had permitted her to file a fresh representation and if necessary to an higher authority. Instead of forwarding the representation to the higher authority, she had forwarded a representation to the Military Engineering Services without specifying the higher authority. The same was again disposed of by the competent authority R2 again on 06.02.2020. Here also we find nothing wrong committed by the respondents.

8. The competent authority has passed a speaking order showing the reasons for transfer. As per A13 order, Trichy station has become a surplus station in JE (Civil) category & the GE, Ahmednagar was a critically deficient station & these type of postings are done for curing the imbalances which are in existence. He had also stated the manner in which the critical surplus/deficient is calculated. He stated that the place sought by the applicant i.e., Chennai Complex is critical surplus as per Command Satisfaction Level & he has also given the vacancy positions at Chennai Complex, Coimbatore Complex and Bangalore Complex.

9. The Counsel for the applicant would contend that the respondents had not followed the transfer guidelines for female employees & hence there is arbitrariness & the transfer cannot be sustained. On the other hand, the Counsel for the respondents had invited our attention to various decisions of the Hon'ble Supreme Court & would contend that transfer is an incidence of service & the Tribunals should not interfere with the transfer orders.

10. We had carefully gone through the rival contentions. It is a fact that the applicant is transferred to Ahmednagar which is a far off place from Trichy. But

clause (b) of the guidelines reads thus :

“(xii) (b) Female employees will not be posted to long distance stations/complexes more than 80 km from their existing station/complex to the extent possible. However if no station/complex is located within 80 KM they may be posted out only in cases of critical surplus in the station. In that case they will have the privilege of exercising three choices for posting out. After completion of tenure at new complex they will be asked three choices for posting.”

11. In this case, a peculiar circumstance has arisen where AGE (I), Trichy is going to be closed & the services of JE (Civil) has become surplus. The applicant was given an option of 3 choice places & the applicant had given choices where no vacancy exists. Accordingly she was transferred to the GE, Ahmednagar.

12. We do not find any illegality or arbitrariness. So we are not inclined to interfere in the order of transfer issued in this case. However, the applicant is given an opportunity to give a fresh representation showing 3 choice stations including Bangalore where there exists vacancy immediately to the competent higher authority & join at Ahmednagar. The competent authority is directed to consider her case in accordance with the guidelines regarding transfer of female employees & pass order within a period of three months from the date of receipt of representation.

13. OA is disposed of accordingly.

**(T.Jacob)**  
**Member(A)**

**(P. Madhavan)**  
**Member(J)**

**02.06.2020**

SKSI