

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**No. OA 280 of 2020**

**Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)  
Hon'ble Mr. C.V.Sankar, Member (A)**

Prashanta Kumar Pradhan, aged about 51 years, S/o Late Ghanashyam Pradhan of Village – Dandamir, PO/PS-Tirtol, Dist-Jagatsinghpur, at present working as Assistant Communication Officer, Ministry of Home Affairs, government of India, Inter State Police Wireless Station (MHA), Unit No. VIII, in front of Stewart School, Nayapalli, Bhubaneswar, Dist-Khordha (Odisha), Pin-751012.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary, Government of India, Ministry of Home Affairs, New Delhi, Pin-110001.
2. Director, directorate of Co-ordination Police Wireless, (DCPW) Ministry of Home Affairs, Block No.9, Central Government Offices (CGO) Complex, Lodhi Road, New Delhi, Pin-110003.
3. Station Superintendent Inter State Police Wireless Station, Unit No. VIII, in front of Stewart School, Nayapalli, Bhubaneswar, Dist-Khordha (Odisha), Pin-751012.

.....Respondents

For the applicant : Mr. S.S.Pradhan, counsel  
Mr.S.Das, counsel

For the respondents: Mr.P.R.J.Dash, counsel Heard &

reserved on : 20.1.2022

Order on : 29.01.2021

**O R D E R**

**Per Mr.Swarup Kumar Mishra, J.M.**

The applicant has filed the present OA under Section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs :

- “(i) The order of transfer vide Order No. 27 of 2020 dated 16.7.2020 under Annexure A/4 and all other consequential orders may kindly be quashed;
- (ii) The Hon'ble Tribunal may graciously be pleased to allow the application and direct the respondents to allow the applicant to continue as Assistant Communication Officer, at Inter State Police Wireless Station (ISPW) Unit No.VIII, Nayapalli, Bhubaneswar, Dist-Khordha in terms of the Office Memorandum dated 26.10.2015 & 30.9.2009 issued by DOPT under Annexure A/1 series and he may be extended all the service benefits as admissible within a reasonable time to be stipulated by this Hon'ble Tribunal.
- (iii) And to pass any other appropriate direction/order as the Hon'ble Tribunal deems fit and proper to which the applicant is entitled to.”

2. The facts of the case in a nutshell are that the applicant was appointed as Asst. Communication Officer at Aizawl, Mizoram on 16.7.1997. On 19.6.2000 he was transferred to Bhubaneswar and after that he was posted at different places including New Delhi, Jammu & Kashmir, Raipur, Chhattisgarh. He was again transferred to Bhubaneswar on 2.7.2011. Since the applicant completed six years' service by 2017 while being posted at Bhubaneswar and since under the transfer policy the maximum tenure for normal station is six years, the applicant on 15.12.2017 filed a representation before the respondent No.2 praying therein to retain him at Bhubaneswar taking into consideration both the transfer policy as well as the office memorandum concerning posting of husband and wife at the same station. Despite this, the applicant was transferred to Ranchi vide order dated 24.7.2018. Since the authorities did not consider the representation of the applicant and transferred him, he again represented for his retention at Bhubaneswar on 26.7.2018, 5.8.2018 and 24.8.2018. Vide order dated 13.11.2018 the respondents rejected the representation filed by the applicant. The applicant approached this Tribunal in OA 585/2018 challenging the transfer order dated 24.7.2018 with a further prayer for a direction to the respondents to allow him to retain at Bhubaneswar. The said OA was disposed of on 21.12.2018 with the following direction :

“In view of the submissions of the learned counsels as above, the OA is disposed of at this stage with liberty to the applicant to file a detailed representation raising the grounds which have been taken in this OA along with copy of the OA to the respondent No.2/competent authority within one week of receipt of copy of the order. If such representation along with paper books of this OA is received by respondent No.2/competent authority, shall reconsider the matter and dispose of the same by issuing a fresh order, copy of which shall be communicated to the applicant within one month from the date of receipt of such representation.

It is made clear that till that time the applicant shall not be relieved if he has not been relieved already as on today, in view of the fact that no substitute has been posted against the applicant vide the transfer order dated 24.7.2018 (Annexure A/1). If the representation will not be submitted within the stipulated time as mentioned above, the Respondents are at liberty to take necessary action as per Rule.”

Thereafter the applicant filed representation dated 22.12.2018 along with the copy of the order of this Tribunal dated 21.12.2018 and other relevant

documents concerning his medical treatment as well as treatment of his brother and wife. Since the order of this Tribunal was not complied with by the respondents within the stipulated time, he filed MA 70/2019 for implementation of the order. During hearing of the MA learned counsel for the respondents submitted that the representation of the applicant was already disposed of vide order dated 20.2.2019. Being aggrieved by the order dated 20.2.2019 the applicant approached this Tribunal in OA 159/2019 which was disposed of vide order dated 29.7.2019 (Annexure A/2) by quashing the order of transfer dated 24.7.2018, order dated 20.2.2019 and consequential order relieving the applicant to join the transferred post and further directed the respondents to allow the applicant to continue at Bhubaneswar. However, this Tribunal granted liberty to the respondents to pass a fresh order of transfer in accordance with DOPT OM dated 30.9.2009 as well as OM dated 26.10.2015. The respondents challenging the order of this Tribunal dated 29.7.2019 filed WP(C) before Hon'ble High Court which was dismissed on 13.3.2020 (Annexure A/3). The respondents then issued a common transfer order dated 16.7.2020 transferring the applicant from Bhubaneswar to Agartala along with other officers (Annexure A/4). The applicant filed a representation dated 20.7.2020 (Annexure A/5) receiving which the respondents issued another letter dated 27.7.2020 mentioning the date of relieve of the applicant as 17.8.2020. Being aggrieved by such inaction on the part of the respondents, the applicant has filed the present OA.

3. The respondents have filed their Counter stating that the applicant has already remained more than 17 years out of his 23 years of service i.e. more than 75% of his service carrier at Bhubaneswar. The applicant is the officer who has remained maximum period in his choicest place i.e. Bhubaneswar and longest stay in a particular station even after completion of his station tenure. It is also stated that keeping in view the difficulty of applicant, the respondents have already allowed him more than two years at Bhubaneswar even after completion of his tenure. On completion of the tenure at ISPW Station Bhubaneswar, the applicant was transferred to ISPW Station Ranchi in the

rotational general transfer of 2018 and keeping in view the order dated 29.7.2019 passed by this Tribunal in OA 159/2019, he was allowed to continue and his period of leave/absence has been regularized without taking any action against him. The applicant was transferred to nearest station i.e. ISPW, Ranchi where the optimum strength of official was required for which no reliever was posted. It is also submitted by the respondents that the guidelines issued by DOPT vide OM dated 30.9.2009 which speaks about posting of husband and wife at the same station is not mandatory and does not confer any legal right on the employee to continue at the station of his choice for indefinite period. Moreover, the respondents have to adjust other employees also as far as administratively feasible, who may have more problems and more liabilities than the applicant. Though the respondents have sympathy for the personal problems of the applicant but that cannot be a ground for posting him at a particular station for indefinite period. Therefore the respondents have prayed for dismissal of the present OA being devoid of any merit with heavy exemplary cost for repeatedly approaching this Tribunal for each and every order of transfer issued by the authority. They have also prayed that the interim order passed by this Tribunal dated 3.8.2020 be also vacated and the applicant may be directed to join at his new transfer place of posting i.e. ISPW Station Agartala.

4. The applicant has filed Rejoinder to the Counter reiterating the facts as stated in the OA. The respondents have also filed Additional Reply.

5. Learned counsel for the applicant has relied on the following judgments in support of his case :

- i) UOI & Ors. -vs- S.K.Abbas [1993 AIR SCW 1753]
- ii) Mohinder Singh Gill & Anr. -vs- The Chief Election Commissioner, New Delhi & Ors. [AIR 1978 SC 851]
- iii) Polester & Co. -vs- Addl. Commissioner of Sales Tax, New Delhi [AIR 1978 SC 897]
- iv) Commissioner of Police, Bombay -vs- Gordhandas Bhanji [AIR (39) 1952 Sc 16]

6. We have heard learned counsels for both sides and have gone through the pleadings on record and the citations relied upon by the learned counsels for the parties.

7. The applicant had earlier approached this Tribunal on two earlier occasions filing OA 585/2018 challenging the order of transfer dated 24.7.2018 and OA 159/2019 challenging the transfer order dated 24.7.2018 and 20.2.2019. This Tribunal quashed the transfer order dated 24.7.2018 and the consequential order relieving the applicant to join the transferred post and further directed the respondents to allow the applicant to continue at Bhubaneswar forthwith. However, liberty was granted to the respondents to pass fresh transfer order in accordance with DOPT OM dated 20.9.2009 and 26.10.2015. It is submitted by applicant's counsel that DOPT OM allows him to be retained at Bhubaneswar on spouse ground. But the department is not bound to accept the said ground because the guidelines issued by DOPT vide OM dated 30.9.2009 which speaks about posting of husband and wife at the same station is not mandatory and does not confer any legal right on the employee to continue at the station of his choice for indefinite period. Therefore since the applicant has continued at Bhubaneswar for 17 years out of his 23 years service career and since there is no malafide proved in this case, the present OA does not call for any interference. Citations relied upon by the learned counsel for the applicant are not applicable to the facts and circumstances of the present case.

8. The OA is therefore dismissed. There will be no order as to costs.

(C.V.SANKAR)  
MEMBER (A)

(SWARUP KUMAR MISHRA)  
MEMBER (J)