

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

KOLKATA BENCH

Title of the case : O. A. No. 350/0520/2020

In the matter of :-

An application under Section 19 of
the A. T. Act. 1985;

- And -

In the matter of :-

Smt. Runa Mukherjee, aged about 54
years, Daughter of Late K. K.
Ghoshal, working as P.S. to HGS
(SD&WE) (Major General), HQ
Eastern Command (General Staff &
Staff Duties War Established), Fort
William, Kolkata - 700021, at present
residing at 29/1/2A, Chotla Central
Road, 1st Floor, Kolkata - 700027.

Applicant

- Versus -

1. Union of India service through the
Secretary, Ministry of Defence,
South Block, DHQ, New Delhi -

110011

2. The Director General Staff Duties

SD-7 (Admn. Civilians) General
Staff Branch, Integrated HQ of
Ministry of Defence (Army) DHQ,
P.O. New Delhi - 110011.

3. The Director, GSSD/SD-7, (Adm.
Civ), G.S. Branch, IHQ of Ministry
of Defence (Army), New Delhi -
110011.

4. The Major General, General Staff
(Staff Duties), Head Quarter,
Eastern Command, Fort William,
Kolkata - 700021.

Respondents

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

Date of Order: 31.07.2020

No.O.A.350/520/2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

RUNA MUKHERJEE

Vs.

**UNION OF INDIA & OTHERS
(DEFENCE)**

For The Applicant(s): Mr. K. Sarkar, counsel

For The Respondent(s): Mr. S. Paul, counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

Ld. counsels were heard. Records were perused.

2. The case of the applicant in a nutshell is that she filed one O.A.No.350/139/2020 for cancellation of the transfer order dated 30.12.2019 transferring her from Headquarters, Eastern Command to Headquarters, Southern Command on the ground that the transfer policy was violated. This Tribunal had stayed the transfer order on the ground that the transfer order dated 30.12.2019 was based on a rotational transfer policy dated 29.11.2019 that was stayed by various judicial fora including the Hon'ble High Court of Himachal Pradesh. A reply was directed to be filed and the respondents were given liberty to seek vacation of the interim order. Respondents were restrained from taking any coercive step against the applicant. Meanwhile on 27.02.2020 the stay granted by Hon'ble High Court of Himachal Pradesh, Shimla was vacated and the



representation of the applicant was rejected being devoid of any merit as communicated by the Director vide communication dated 29.06.2020. A fresh transfer order dated 15.07.2020 stood issued, transferring the applicant from Headquarter, Eastern Command to HQMG &G Area(HQSC), Mumbai & Goa which is assailed in the present O.A.

3. At hearing, Mr. K. Sarkar, Id. counsel for the applicant would vociferously object to such transfer on the following grounds:-

(i) That, no Placement Committee was constituted to consider such transfer which violated the Hon'ble Apex Court's mandate;

(ii) That, the transfer order was never served, neither physically nor digitally;

(iii) That, it was not issued by the competent authority who is the Brigadier in this case whereas the order has been issued by the Deputy Director, which violates Section 16 of the General Clauses Act.

(iv) That the rotational transfer policy has been stayed by various judicial fora and by the Defence Establishment themselves due to the prevailing pandemic situation, as such ought not to have been acted upon by the respondent authorities.

(v) The daughter of the applicant will face Board Examination in 2021.

4. A reply has been filed by Id. counsel Mr. S. Paul appearing for the respondents wherein it has been categorically pleaded as under:-

(i) The applicant has completed 32 years of service in Headquarters, Eastern Command as against the maximum tenure of 10 years;


(ii) The stay was granted by this Tribunal on the basis of a stay granted by the Hon'ble High Court of Himachal Pradesh, Shimla which has since been vacated;

(iii) To ensure a fair and transparent posing policy transfer has been recommended by a committee comprising of Brigadier (Administration) or equivalent of concerned Command Headquarters as Colonel, General Staff(Special duties) of concerned command and Lieutenant Colonel or equivalent of Command Headquarters, was constituted. Therefore, the allegation that the transfer was not routed through a Placement Committee or the transfer order was issued by an incompetent authority stands negated.




5. At hearing, Id. counsel for the respondents would submit that the orders placed by Id. counsel for the applicant in support of his contention that Ministry of Defence has kept on hold all rotational transfers do not apply to the applicant who is an employee under Ministry of Defence. Id. counsel would also submit that by way of a speaking order dated 15.05.2020 the prayer of the applicant stands rejected.

6. At hearing, Id. counsel for the applicant would submit that Mumbai being severely affected due to Covid 19 pandemic, the applicant should not be forced to join immediately.



7. Having heard the Id. counsels and having considered the rival contentions we are of the considered opinion that the applicant having served Eastern Command for the last 32 years without a single transfer and none of the grounds as put forth being sufficient to tempt us to set aside the transfer she should join her place of transfer immediately and then prefer representation citing her difficulties. We permit the applicant to digitally join at Mumbai office and work from home until the prevailing pandemic situation at Mumbai improves, for which the applicant shall within a week express her willingness to join at Mumbai digitally and make a request for permitting her to work from home at Kolkata. Thereafter the applicant may request for her retention at/transfer back to Kolkata citing her difficulties to join or serve at Mumbai which if preferred, shall be considered and disposed of with an appropriate order within two months from the date of receipt of such representation.



8. Accordingly the application stands disposed of. No costs.

Liberty is given to communicate the gist of this order.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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