

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/351/659/2020

Date of Order: 23.09.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member

Shri Swapan Kumar Majumdar, son of late Ramesh Chandra Majumdar, aged about 59 years, residing at 15/A, D.P. Street, Lillypur, Ward No. 1, Haddo, Post Office- Haddo, Port Blair, South Andaman, Pin- 744102 and presently working to the post of Superintendent (Wharf) in the office of the port management Board under Andaman & Nicobar Administration.

.....Applicant.

-versus-

1. Union of India, service through the Secretary, Ministry of Home Affairs, Government of India, South Block, New Delhi- 110001.
2. The Andaman & Nicobar Administration, service through the Chief Secretary, having its office at Secretariat, Port Blair- 744101.
3. The Chief Secretary, Andaman & Nicobar Administration, Secretariat, Port Blair- 744101;
4. The Chief Port Administrator, Port Management Board, Andaman and Nicobar Administration, Secretariat, Port Blair- 744101.
5. The Chairman, Port Management Board, Andaman and Nicobar Administration, Secretariat, Port Blair- 744101.
6. The Assistant Director (Administration), Port Management Board, Andaman and Nicobar Administration, Secretariat, Port Blair- 744101.
7. The Assistant Secretary (Personnel), Andaman & Nicobar Administration, Secretariat, Port Blair- 744101.



8. The Commissioner- Cum- Secretary (Shipping),
Andaman and Nicobar Administration, Secretariat,
Port Blair- 744101.

9. The President, Government Employees' Federation
(State Apex Organization) Andaman & Nicobar
Islands having its office at 21, Tagore Road, Gandhi
Bhawan, Phoenix Bay, Port Blair- 744101.

.....Respondents.

For the Applicant(s): Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondent(s): Mr. R. Halder, Counsel



ORDER (ORAL)

Bidisha Banerjee, Member (I):

Heard Id. Counsel for both the parties.

2. This O.A. has been filed by the applicant to seek the following reliefs:

- a) To quash and/or set aside the impugned office order No. 899 dated 26th April, 2016 ^{& 26.04.2017} by which your applicant was transferred from Port Blair to Mayabunder wherein the name of the applicant appeared at Serial No. 2 in the said office order being Annexure A-3 of this original application. ^{& A-24(A)}
- b) To quash and/or set aside the impugned memo dated 2nd June, 2017 by which the respondent authority rejected the representation submitted by the applicant for consideration of cancellation of his transfer order being Annexure A-6 of this original application
- c) To quash and/or set aside the impugned office order dated 31st May, 2019 by the Assistant Director (Administration) of Andaman and Nicobar Administration communicated to the

President of the Federation that the request of cancellation of the transfer of the present applicant cannot be considered at this stage along with copy of the earlier rejection order dated 4th June, 2018 being Annexure A-27 and A-28 of the original application.

b) To quash and/or set aside the impugned memo dated 19.12.2019 by which the claim of the application for posting at Headquarter at Port Blair has been rejected and directed the applicant to join duty in the transfer post at Mayabunder being Annexure A-34 of the original application.

c) To declare that the transfer of the applicant who is holding the post of General Secretary of Government Employees' Federation (State Apex Association) of the Andaman and Nicobar Islands is utter violation of the Government of India's Rules disclosed by the Assistant Director (Administration) in his Office Note dated 25th July, 2017 which is appearing at Annexure A-31 of this original application whereby he has referred and requested that the department may therefore examine the case as per the rule, provisions/guidelines and take an appropriate decision at their level for cancellation of transfer order of the applicant in terms of the Government of India's rules which appearing at Annexure A-26 of this original application which was not considering in this particular case and on that ground itself,

the impugned order of transfer is violation of the said Government of India's rules as well as violation of the circular issued by the Andaman and Nicobar Administration because the case of transfer of the applicant was not considered by the competent authority and also by violation of the Recruitment Rules which is appearing at Annexure A-2 of this original application dated 5th November, 2013 because the case of the applicant has not been brought before the competent authority and on that ground itself, the impugned order of transfer against the applicant cannot be sustainable in the eye of law and may be liable to quashed and/or set aside.

d) To pass an appropriate order directing upon the respondent authority to issue an order of posting in favour of the applicant at Port Blair in terms of the Annexure A-31, Annexure A-26 and Annexure A-1 and A-2 of this original application and to regularize the leaves of the present applicant and direct the respondent authority to pay the salaries of the applicant for the intervening periods.

e) To pass an appropriate order directing upon the respondent authority not to disturb the present applicant for transferring him from Port Blair to some other place as because he is holding the post of General Secretary of the

said Federation and he is entitled to get privileges for posting at Headquarter at Port Blair;



3. At hearing, both the counsels would agree that the OA can be disposed of with a direction to the applicant to comply the Office order dated 19.12.2019 and to immediately report for duty at the place of posting and then to submit his representation to the Office for consideration with reference to the ground adduced on compassionate ground, as mentioned in the OM dated 19.12.2019.

4. In view of such submission, we direct the applicant to comply with the OM dated 19.12.2019 within a period of 4 weeks from the date of receipt of a copy of this order and report for duty at the place of transfer. Whereafter the applicant may prefer a detailed representation in terms of OM dated 19.12.2019 which if preferred, shall be considered and disposed of by the competent respondent authority, within a period of 4 weeks of its receipt and in accordance with law.

5. Ld. Counsel for the applicant would voice his apprehension that the respondents may prevent the applicant from joining, while Ld. Counsel for respondents assures that the applicant would be allowed to join the place of transfer.

6. The order releasing the applicant, dated 8th May, 2019, is taken on record.

7. This O.A. stands disposed of accordingly. No costs.

(Iarun Shridhar)
Member (A)

(Bidisha Banerjee)
Member(J)