

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. Nos.: 1. 183/90 & 199
T.A. No. 2. 183A/90

DATE OF DECISION 1.10.1991

Smt. C.P. Mohanty	<input checked="" type="checkbox"/> Petitioner Applicant
Shri D.R. Gupta and Shri G.D. Gupta	Advocate for the Petitioner(s) <input checked="" type="checkbox"/> Applicant Advocate for Intervener
Versus	
Union of India & Others	Respondent
Shri P.H. Ramchandani	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? /No
4. Whether it needs to be circulated to other Benches of the Tribunal? /No

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, while working as Psychologist in
Vocational Rehabilitation Centre for Handicapped in the
Directorate General of Employment and Training, Ministry
of Labour, filed OA-183/90 in the Tribunal being aggrieved
by her transfer to Ludhiana by order dated 17.1.1990. At
that time, her husband was working in the Delhi Administration.
She made a representation to the respondents on 22.1.1990
wherein she stated that she had two small kids, the younger
one being only 5 months old, that when she and her husband
were away to attend their office, the kids were being looked
over

after by her parents residing in Delhi, and that transfer to Ludhiana will cause great hardship to her.

2. On 22.2.1990, the respondents cancelled the aforesaid transfer order dated 18.1.1990 and she was reposted at Delhi. By the same order, they transferred Smt. Nutan Pandey, Psychologist, then working at Delhi and posted her at Patna. With the passing of order dated 22.2.1990, OA-183/90 has become infructuous.

3. During the pendency of OA-183/90, the applicant filed MP-2859/90 on 13.11.1990 challenging the impugned order dated 9.11.1990, whereby the respondents sought to relieve her from her duties of the post of Psychologist from the afternoon of 9.11.1990 with the direction to report for duty at their office at Patna. On 16.11.1990, the Tribunal passed an order treating MP-2859/90 as a fresh application. An ex parte interim order was also passed directing that status quo as of 16.11.1990 as regards the continuance of the applicant in her present post at Delhi, be maintained. The interim order was thereafter extended till the case was finally heard and orders reserved thereon on 4.9.1991.

4. In the meanwhile, the husband of the applicant had been selected and posted as Assistant Director (Industrial Psychology), Directorate General, Factory Advice Service and Labour Institutes under the Ministry of Labour and posted at Bombay. The applicant has filed MP-2271/91 on 12.8.1991, wherein she has prayed, inter alia, that in view of the transfer

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of the husband of the applicant from Delhi to Bombay, it is desirable to transfer the applicant also to Bombay instead of Patna as per the instructions of the Government that both the husband and wife serving under the Central Government should be kept at the same station as far as possible. She has prayed that on the ground of her husband's transfer to Bombay, the respondents may be directed to post her at the same station.

5. The applicant has alleged that her transfer to Patna has been ordered with a view to accommodating Smt. Nutan Pandey at Delhi, who is highly connected (being the wife of Dr. Manoj Pandey, who is the son of late Shri Kedar Pandey, Ex-Chief Minister of Bihar and Ex Railway Minister). Shri G.D. Gupta, learned counsel has appeared before us on behalf of Smt. Pandey as Intervener.

6. The respondents have stated in their reply to CA-183A/90 that before the interim order was passed by the Tribunal on 16.11.1990, the applicant stood relieved from Delhi, that she did not hand over charge on 9.11.1990, that her transfer order to Ludhiana was cancelled on 22.2.1990 "on some other ground" (which has not been disclosed), that she had given a notice of withdrawal of CA-183/90 to them, that she holds a post which carries

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All India transfer liability, that her transfer to Patna was ordered purely on merit and on administrative grounds, and that she being an experienced officer, was transferred to Patna where there was no Psychologist in position.

7. We have gone through the records of the case and have considered the rival contentions. At the outset, it may be observed that the allegation made by the applicant against Smt. Pandey's posting at Delhi due to political pressure and her high connections, have not been substantiated. It is unfortunate that allegations of this nature are made in solemn pleadings before Courts. We reject the allegation made by the application in this regard.

8. The respondents have stated that the applicant is an experienced Psychologist. They have not denied the version of the applicant regarding her domestic circumstances. The learned counsel for the respondents stated during the hearing that her husband had also been posted at Rourkela at the time of her transfer to Patna. As against this, the learned counsel for the applicant stated that he was only on deputation to Rourkela for about one year and that he is now posted at Bombay. In our opinion, having regard to the fact that the applicant is the mother of two small kids, one of whom is still being breast-fed, her non-compliance with

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the orders of posting at Patna should be viewed with compassion. We also feel that having regard to the administrative instructions issued by the Government for posting the husband and wife at the same station, as far as possible, the respondents should consider posting the applicant at Bombay where her husband has also been posted.

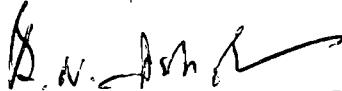
9. In the facts and circumstances of the case, the applications are disposed of with the following orders and directions:-

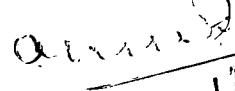
(i) While the applicant has no legal right to be posted at a particular station, as she is holding a transferable post, her non-compliance of the order of transfer to Patna cannot be treated as deliberate or an act of disobedience having regard to the fact that she is the mother of two children of whom one is at the breast-feeding stage. In the interest of justice and equity, the applicant should be paid her pay and allowances from 9.11.1990 till a decision is taken on her fresh posting to Bombay, where her husband has been posted. The post of Psychologist at Patna had been lying vacant during this period. We also direct that the earned leave and half-pay leave due to her may

be suitably adjusted. The respondents shall release the arrears of pay and allowances to her within a period of three months from the date of receipt of this order.

(ii) The respondents shall consider the request of the applicant for posting her at their Bombay office in terms of the relevant administrative instructions regarding the posting of husband and wife at the same station, as far as possible. This direction shall be complied with within a period of three months from the date of receipt of this order.

Let a copy of this order be placed in both the case files.


(B.N. Dhoundiyal) 11/10/71
Administrative Member


(P.K. Kartha) 11/10/71
Vice-Chairman (Judl.)