

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.423 OF 2004

New Delhi, this the 1st day of March, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

O.P. Nerwal Attache (Commerce)
(Represented by Shri Uday Singh)
his authorized Attorney in India)
Embassy of India,
Washington, USA.

.....Applicant
(By Advocate : Shri Mahesh Singh)

Versus

Union of India,
1. Ministry of External Affairs,
(Represented by Secretary)
Ministry of External Affairs,
South Block, New Delhi.

2. Ministry of Commerce,
(Represented by Secretary),
Ministry of Commerce,
Janpath, New Delhi.

.....Respondents

ORDER (ORAL)

The grievance of the applicant in this OA filed under Section 19 of the Administrative Tribunals Act, 1985 is that he has been transferred from Washington, USA and has been attached to Head Quarters at New Delhi as per order dated 19.11.2003. It is stated by the learned counsel that the applicant has made a representation for extension of his stay at Washington on account of his personal problems. The applicant's son has been under treatment at Washington as per advice of the doctor attending ~~to~~ his son dated 29.7.2003 (Annexure A/7), the treatment was likely to be for at least one more year. It is further pointed out by the learned counsel that the respondents have rejected the prayer of extension as per communication dated 9.2.2004. Learned counsel of the applicant informs that the applicant had earlier made a

On my part
C. Singh

representation in October, 2003, which has been rejected by this communication dated 9.2.2004. However, it is stated that another representation dated 20.11.2003 (Annexure A/8) has again been made in which the applicant has ^{sought for} ~~made~~ the following relief:-

dV

- "1. grant of extension for six months and grant of ex-India leave for six months alongwith AMA facilities.
- 2. Posting in a nearby American country to enable me to bring my son as and when required for treatment; (Panama, Mexico, Bogota, Havana, Caracas, Georgetown, Port of Spain); or
- 3. grant of ex-India leave for one year alongwith AMA facilities."

2. Learned counsel also stated that this is a case where the administration should have taken into account the serious illness of the applicant's son, ^{or life} whose ~~life~~ ^{by} has to be saved only ~~by~~ taking recourse to best medical facilities available. The applicant was prepared to ^{be} posted ^{to} even on inferior posting. Learned counsel stated that since the present extension comes to an end on 20.3.2004, the applicant will be put to irreparable loss if the respondents do not take decision in the matter before the said date.

3. After considering the facts of this case and the contentions of the learned counsel of the applicant, it is considered desirable that the pending representation of the applicant dated 20.11.2003 should be decided by the respondents as early as possible. Therefore, this OA is disposed of at the

Ch. B. Rajan

(S)

admission stage itself with a direction to respondent no.1 to take a decision in the matter before the extended period of posting at Washington of the applicant comes to an end. For this purpose, the applicant is directed to enclose a copy of this OA along with a copy of the present order to respondent No.1 together with a fresh self-contained representation within a couple of days, but not later than end of this week. In case of such a representation, copy of Original Application and a copy of the present Order is filed by the applicant or on his behalf by his counsel, respondent no.1 is directed to take a decision in the matter as early as possible preferably before the end of the applicant's extended posting at Washington by passing a speaking order under intimation to the applicant. In case, for any unavoidable reasons, the respondent No.1 is not able to take decision in the matter, the applicant may not be displaced pending decision on his representation as directed hereinbefore.

4. In view of what is stated earlier, OA is disposed of without any order as to costs.

Issue DASTI.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

/ravi/