

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD**

Allahabad, this the 23rd day of June, 2021

Original Application No. 330/00134/2021
(U/S 19, Administrative Tribunal Act, 1985)

Present:

Hon'ble Mrs. Justice Vijay Lakshmi, Member- (Judicial)
Hon'ble Mr. Devendra Chaudhry, Member-(Administrative)

Dr. Mayuri Suri a/a 56 years, wife of Sandeep Suri, Chief Medical Officer (CMO), Ordnance Clothing Factory, Shahjahanpur, R/O 16/2 Link Road, OCF Estate Shahjahanpur, District-Shahjahanpur.

.....Applicant

By Advocate: Shri Ajal Krishna.

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Director General, Ordnance Factory and Chairman, Ordnance Factory Board, 10-A, S.K. Bose Road, Kolkata-700001.
3. Dr. P.P. Wadikhaye, Director health Services, Ordnance Factory Board, 10-A, S.K. Bose Road, Kolkata-700001.
4. Joint General Manager, HOO, Ordnance Clothing Factory, Shahjahanpur, U.P.-242001.

-----Respondents

By Advocate: Shri M.K. Sharma holding brief for Shri Chakrapani Vatsyayan

ORDER

Delivered by Hon'ble Mrs. Justice Vijay Lakshmi, Member-J :

We have joined this Division Bench online through video conferencing.

2. Shri Ajal Krishna, Id. counsel for the applicant, has appeared online through video conferencing and Shri M.K. Sharma holding brief of Shri Charkapani Vatsyayan, Id. counsel for respondent nos.1,2 and 4, is present in court. Id. Counsel for the applicant sought permission to delete the name of private respondent no.3 from the array of parties, which was allowed.

3. Heard Id. counsel for the parties on admission and prayer for interim relief. Perused the record.

4. The applicant by means of the instant OA, is challenging the impugned order dated 15.12.20, whereby her request for premature transfer from Shahjahanpur to Muradnagar, Ghaziabad or Chandigarh has been rejected by the respondents. Prayer for interim relief by staying the aforesaid order has also been made by the applicant.

5. This is the second round of litigation. Earlier, the applicant, by means of OA No.606/2020 had approached this Tribunal and this Tribunal by judgment and order dated 27.10.2020, had disposed of the aforesaid OA, directing the respondent concerned/competent authority, to decide the representation dated 07.08.2020 of the applicant in the light of departmental guidelines and Transfer Policy/Office Memorandum, issued in this regard, by a speaking and reasoned order within a period of two months from the date of receipt of certified copy of the order. The certified copy of the aforesaid order dated 27.10.2020, was sent to the respondents by Speed Post on 07.11.2020.

6. The respondent concerned decided the representation of the applicant by impugned order dated 15.12.2020 (Annexure-A-1) and rejected the prayer of the applicant on the following grounds :-

- (i) She has spent less than 3 and ½ years at her present place of posting at Shahjahanpur, whereas the minimum normal tenure at a Station is 05 years.
- (ii) Out of her total service tenure of approximately 24 years and 08 months, she has spent more than 21 years at the two Stations i.e. Muradnagar and Chandigarh.
- (iii) She is now seeking 3rd tenure at any of the above two Stations only.
- (iv) Shahjahanpur, where she is presently posted, is not too far from Delhi where her husband is posted.
- (v) Transfer on spouse ground is not possible in this case because there is no Ordnance Factory at Delhi, where her husband is working on a non transferable post.
- (vi) All the IOSHS Officers have an all India transfer liability and their postings are based on functional requirements and are covered under the transfer policy for this purpose.
- (vii) Considering the functional requirements of Medical Officer in 25 different Hospitals, it is not possible to post the applicant to her choice Station at present. Therefore, her representation is accordingly rejected. Notwithstanding the aforesaid decision, the request of the applicant Medical Officer will be considered in future, subject to functional requirements as mentioned.

7. Learned counsel for the applicant has submitted that the husband of the applicant is suffering from heart disease and has already suffered heart attacks three times. He is posted at Delhi. According to the transfer policy and DOP&T guidelines dated 20.09.2009, the husband and wife should be posted at the same Station. It is also submitted that the daughters of the applicant are studying at Chandigarh, therefore, it is very difficult for her to look after all these problems from Shahjahanpur.

8. Learned counsel for the respondents has vehemently opposed the prayer for stay of the transfer order by submitting that every Government servant, while entering into service, is very well aware of the fact that he/she is under the liability to be transferred and no one has a vested right to be posted at a place according to his/her own choice. The applicant has spent almost whole of his service tenure i.e. more than 21 years at Chandigarh and Muradnagar, Ghaziabad and now she has applied for premature transfer from Shahjahanpur, seeking her posting again on those two Stations i.e. Chandigarh and Muradnagar, Ghaziabad, where she has already spent more than 21 years of service. It is further contended that the impugned order dated 15.12.2020 is a well reasoned and speaking order. Moreover, transfer being a necessary condition of Govt. service, every Govt. servant should be ready to accept it. It is lastly contended that so far as the posting of husband and wife at the same Station is concerned, it is not a mandatory condition but is only directory in nature, hence it is prayed by respondents' counsel that the OA being meritless is liable to be dismissed and be dismissed.

9. Having considered the rival submissions advanced by learned counsel for the parties and keeping in view the fact that the main relief and the interim relief sought in this OA are almost same and as per well settled legal position, where both the reliefs are same, interim relief should not be granted, we, with the consent of learned counsel for the parties, are deciding this OA finally at admission stage, as under :-

10. Considering the facts and circumstances of the case in wake of the well settled legal position regarding transfer of a Govt. servant as reiterated by Hon'ble Apex Court in a catena of judgments, there does not appear any illegality or irregularity in the order impugned. Accordingly, prayer for quashing the same is refused.

11. However, considering that in the last line of the impugned order, the respondent concerned has himself mentioned that request of the applicant will be considered in future, subject to functional requirements, we finally dispose of this original application with a direction to the respondent concerned, who is competent authority, to consider the request of the applicant sympathetically, in future subject, of course, to functional requirements.

12. With the above directions, this original application is disposed off.

13. All the MAs pending in this OA are also disposed off accordingly.

Hon'ble Shri Devendra Chaudhry, Member (Administrative) has consented to this order during virtual hearing.

(Devendra Chaudhry)
Member(Administrative)

(Justice Vijay Lakshmi)
Member(Judicial)

/RKM/