



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 1299/2020

This the 02nd day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs. Aradhana Johri, Member (A)**

Lakshmi Bhavya Tanneeru, presently Sub-Divisional officer, Arambagh, w/o Sh. Raja Gopal Sunkara, Aged 30 years, currently residing at ADM(G), Bungalow, Temple Street By Lane, Patakura, Ward No.18, PO and Dist-Cooch Behar, West Bengal-736 101.

... Applicant

(By Advocate : Mr. Anwesh Madhukar)

Versus

1. Union of India,
Through the Secretary,
Department of Personnel and Training, North Block,
New Delhi-110 001.
2. Chief Secretary, Govt. of West Bengal,
Nabanna, Howrah-711 101.
3. Chief Secretary, Govt. of Tamil Nadu,
Public (Special A), Department,
Secretariat, Chennai-9.

... Respondents

(By Advocate : Mr. Piyush Gaur, Ms. Madhumita Bhattacharjee and Mr. M. Yogesh Kanna)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant is an IAS officer of 2015 batch. She was allotted to the West Bengal cadre. Shortly, after being inducted into IAS, the applicant married Sri Raja Gopal Sunkara, another IAS officer of same batch, but of Tamilnadu cadre on 25.03.2016. The Government of India, framed a policy in the year 2009, providing for change of cadre of officers of All India Services (AIS), in case, he or she is married to another officer of AIS, in a different cadre.

2. The applicant submitted a representation on 29.03.2016, to the Government of India, Ministry of Personnel and Training, the Government of West Bengal and the Government of Tamilnadu, the respondents 1, 2 and 3, with a request for change of her cadre to that of Tamilnadu. The first respondent, forwarded the application to the respondents 2 and 3. On its part, the 3rd respondent expressed no objection for the change of cadre of applicant to that of Tamilnadu. However, the State of West Bengal, declined consent vide their communication dated 25.11.2016. Ever since then the applicant has been making representations citing the instances of the change of cadre of officers of West Bengal cadre, and others. The first respondent has also undertaken correspondence with the



2nd respondent. When nothing positive was forthcoming, the applicant filed this OA with a prayer to direct the respondent no.2 to communicate no objection to the first respondent and to direct the respondents 1 and 3, to give consequential benefit of change of cadre in terms of Government of India notification dated 12.09.2009.

3. The applicant contends that she married an officer of Tamilnadu cadre way back in the year 2016, and on account of the denial of consent by the 2nd respondent, her request for cadre change did not fructify. She contends that the very purpose of framing policy was to ensure that the spouses live together and render services, and quite large number of officers were extended the benefit thereof. She cited the instances of the change of cadre in favour of Ms.Loganayogi Divya V., Mr.Raj Karan Nayyar, Ms.R.Alice Vaz, IAS officers of the West Bengal cadre.

4. There is no opposition from the respondents 1 and 3. However, on behalf of the respondent no.2, it is stated that there is acute shortage of IAS officers in the State of West Bengal and it is not possible to accede to the request of the applicant for change of cadre. It is also stated that administration would suffer serious inconvenience in case the request for change of cadre are acceded to as matter of routine.



5. We heard Mr.Anwesh Madhukar, learned counsel for the Applicant and Mr.Piyush Gaur, Ms.Madhumita Bhattacharjee and Mr.M.Yogesh Kanna, learned counsel for the Respondents.

6. The allocation of officers of the AIS takes places at the threshold of their career. Since most of the candidates are selected and appointed when they are relatively young, they get married after entering into service. In case, both the spouses remain at the same or proximate places, it would not be difficult for them to render service. However, if the spouse of such officer hails from a different place, its impact would naturally be felt on the quality of service. Obviously, for that reason, the Government of India framed a policy in 2009 providing for change of cadre of officers of AIS, in case he or she is married to another officer of AIS, belonging to a different cadre.

7. The applicant submitted her representation way back in the year 2016, the consent of three authorities viz., DoPT, the State whose cadre she belongs to, and the State whose cadre she intends to get shifted. The respondent 1 and 3 have virtually expressed their readiness to accede to the request of the applicant. It is only the 2nd respondent that declined the consent, vide their communication dated 25.11.2016.



8. The only ground cited therein is that there is acute shortage of IAS Officers in the State of West Bengal. Time and again the Hon'ble Supreme Court held that the shortage of officers of a particular cadre does not constitute the basis to deny the consent for change of cadre, on the ground of marriage.

9. This Tribunal has also expressed the same view in its order passed in OA.No.218/2010, in Dr.Adarsh Singh v. Union of India & Others, and in OA.No.3579/2019 in Gandharva Rathore v. Union of India, decided on 04.12.2020.

10. It is relevant to mention that at one stage the request made by as many as 05 IAS officers of cadre viz., (1) Ms.Nidhi, 2013 batch, (2) Ms.Reena Nirajan, of 2013 batch, (3) Ms.Kritika Sharma, of 2014 batch, (4) Ms.Laxmi Bhavya Taneeru of 2015 batch, (the applicant herein) and (5) Ms.R.Alic Vaz of 2005 batch, were pending with the Government of West Bengal including of those of the applicant.

11. Taking exception to the inaction on the part of the government of West Bengal, Government of India, addressed a letter dated



28.09.2017. The text of the letter is as under:

“As you are aware, five IAS officers of West Bengal cadre namely Ms. Nidhi, IAS (WB:2013), Ms. Reena Nirajan, IAS (WB:2013), Ms. Kritika Sharma, IAS (WB:2014), Ms. Lakshmi Bhavua Taneeru, IAS (WB:2015) and Ms. R. Alice Vaz, IAS (WB:2005) have sought transfer of cadre to AGMUT, Uttarakhand, Uttar Pradesh, Tamil Nadu and AGMUT respectively on grounds of marriage to members of All India Services. However, the Government of West Bengal has regretted grant of no objection for transfer of these officers. The details are annexed to this letter.

2. As per guidelines contained in this Department's O.M. No.13017/16/2003 AIS-I dated 08.11.2004, All India Service officers who are married to All India Service officers are allowed to move to cadre of one of the spouses which they choose subject to the condition that the cadre is willing to accept the officer on transfer. This policy is made to ensure that the family of the AIS Officer is not disturbed and they are able to service in the same state.

3. In the cases mentioned above, the cadres to which these officers have sought transfer have already given their NOCs for cadre transfer on grounds of marriage except in respect of Ms. R. Alilce Vaz, IAS, in whose case NOC from the Ministry of Home Affairs is yet to be sought by this Department.

4. Taking into account the hardship currently being faces by these officers, I would request you to kindly reconsider the matter and issue “No objection” for inter cadre transfer of these five IAS officers.”

12. After the said letter was addressed, the 2nd respondent gave its consent in favour of Ms.R.Alice Vaz on 05.03.2018. It is important to mention that while in respect of all other four officers, the States to which they sought change of cadre, gave consent, such a consent did not exist in favour of Ms.R.Alice Vaz. Still the 2nd respondent has chosen to give consent in her favour, while denying it in case of others.



13. Ms.Kritika Sharma, one of the five IAS officers, mentioned above, filed OA.No.995/2020, before this Tribunal citing the relevant reasons. The OA was allowed, vide order dated 22.12.2020. The same situation obtains in this OA also.

14. The 2nd respondent cannot differentiate among the officers, who are similarly situated. It has already been mentioned that the shortage of officers cannot constitute a ground to deny consent. Learned counsel for the 2nd respondent argued that large number of officers are choosing to leave cadre of that State. If that is so, the administration of the 2nd respondent has to introspect and to examine as to why the situation is not becoming congenial for the officers to function in that State.

15. We therefore allow the OA and set aside the order dated 25.11.2016, passed by the 2nd respondent. The 2nd respondent i.e., the State of West Bengal shall consider the request of the applicant afresh within a period of four weeks from the date of receipt of a copy of this order, in the light of the letter dated 28.09.2017 addressed by the Union of India, the first respondent, and keeping in view of the fact that the request of Ms.R.Alice Vaz, IAS was acceded to. It is



made clear that the shortage of officers shall not constitute a ground for rejection. Respondents 1 and 3 shall take further steps without loss of time, once the consent from the 2nd respondent is conveyed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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