



**Central Administrative Tribunal
Principal Bench: New Delhi**

O.A. No. 1861/2021

This the 8th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sh. Ashish Gupta, Group 'B',
Age 44 years,
Section Officer (F&A)
CSIR Hqrs., Anusandhan Bhawan,
2, Rafi Marg, Sansad Marg Area,
New Delhi-110001

- Applicant

(By Advocate: Mr. Sudeep Vijayan)

Versus

1. Union of India, represented
Through its Secretary,
Ministry of Science & Technology,
Department of Science & Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi-110016
2. Director General, CSIR,
CSIR Hqrs. Anusandhan Bhawan,
2, Rafi Marg, Sansad Marg Area,
New Delhi-110001
3. Joint Secretary (Admn.), CSIR,
CSIR Hqrs. Anusandhan Bhawan,
2, Rafi Marg, Sansad Marg Area,
New Delhi-110001

- Respondents

(By Advocate: Mr. Jayesh N. Unnikrishnan)



ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief(s) :-

“(i) To quash and set aside the impugned transfer and posting order dated 30.03.2012 qua the applicant placed at Annexure A-1;

(ii) to grant cost of the OA to the Applicant herein, and

(iii) to pass such other order or orders as may be deemed fit and proper, in the interest of justice.”

2. Mr. Sudeep Vijayan, learned counsel for the applicant, submitted that the respondents have passed the impugned transfer order dated 30.03.2021 transferring him to NEERI, Nagpur, which is contrary to guidelines for transfer and posting dated 01.01.2019.

3. We heard Mr. Sudeep Vijayan, learned counsel for the applicant and Mr. Jayesh N. Unnikrishnan, learned counsel for the respondents, at the stage of admission, through video conferencing.

4. The basic question raised by the learned counsel for the applicant is that when the transfer order was made, the case of the applicant was not considered in terms of Clause



5A of the Guidelines for Transfer and Posting of Group 'A' and 'B' Common Cadre Officers (CCOs) of CSIR issued by the Council of Scientific & Industrial Research. The said Clause 5A of the Guidelines reads as under:-

“5A. Requests for retention at the present station may be considered upto the end of board examinations in case of child(ren) is/are studying in 10th or 12th Class and the CCO and concerned has already intimated this fact in advance.”

5. To substantiate his arguments, the learned counsel for the applicant placed the Progress Report 2020-2021 of Modern Delhi Public School on record, which shows that his daughter has been promoted to Class X, and her current academic session will be over by April, 2022. Hence, the transfer order is violative of Clause 5A of the Guidelines.

5. On the other hand, learned counsel for the respondents vehemently objected and submitted that the matter should be considered in totality by taking into account the Clause 3 of the Guidelines which provides as under:-

“3. Exigent Transfer/Transfer in Public Interest:

Notwithstanding any provision of these guidelines, the Group 'A' CCOs are liable to be transferred at any time to any CSIR Establishment by DG, CSIR in public interest (i.e. functional needs or in public interest). In



case of Group 'B' CCOs this authority vests in JS (Admin), CSIR."

6. Learned counsel for the applicant submitted that after filing of the OA, he has made a representation dated 18.08.2021 by requesting the department to transfer him at Jorhat, Assam when the current academic session of her daughter is over.
7. Learned counsel for the respondents fairly submits that the aforesaid representation of the applicant is still pending and that in the process of transfer, if any vacancy at Jorhat, Assam, arises, there will be no such problem for posting him to that place.
8. The Hon'ble Apex Court in the case of **Director of School Education Madras and Anr. vs. O. Karuppa Thevan & Anr**, 1994 Supp.(2) SCC 666, held that transfer of an employee during mid academic term is not proper unless exigencies of service are urgent for making such transfer.
9. In view of the arguments advanced by both the learned counsel for the parties, we deem it fit and proper to direct the respondents to retain the applicant at the present place



of posting at Delhi till the academic session of his daughter is over in April, 2022.

9. With the above directions, this OA is disposed of. The directions issued in this order shall be complied with by the respondents immediately, preferably within a period of one week from the date of receipt of a copy of this order, so as to enable the applicant to render his service in the present place of posting at Delhi.

10. We hope and trust that the department, i.e. employer of the applicant shall consider his case for transfer at Jorhat, Assam by taking into account the grievances ventilated by the him through his representation dated 18.08.2021.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

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