

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 351/00143/2021

Date of order: 2.2.2021

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
 Hon'ble Dr. Nandita Chatterjee, Administrative Member

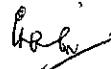
Urmila Biswas,
 Wife of Jayanta Biswas,
 Aged about 54 years,
 By Occupation service as Assistant Engineer (Civil),
 Presently posted at O/o. Chief Engineer,
 APWD, Port Blair,
 Having permanent residence at Garacharma,
 Port Blair,
 District – South Andaman,
 Pin – 744 105.

.... Applicant

- V E R S U S -

1. The Andaman & Nicobar Administration,
 Service through the Lt. Governor,
 A&N Islands,
 Raj Niwas,
 Port Blair – 744 101.
2. The Secretary,
 APWD,
 A&N Administration,
 Secretariat,
 Port Blair – 744 101.
3. The Chief Engineer,
 APWD,
 A&N Administration,
 Port Blair – 744 101.
4. The Assistant Director (Administration),
 APWD,
 A&N Administration,
 Port Blair – 744 101.
5. The Superintending Engineer,
 APWD,
 A&N Administration,
 Port Blair – 744 101.

.... Respondents



For the Applicant : Mr. S. Samanta, Counsel
Ms. A. Roy, Counsel

For the Respondents : Mr. R. Halder, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved with an order of transfer from CE's Office, APWD, Port Blair to PRI, South Andaman, the applicant has approached this Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 praying for the following relief:-

"(a) An order be passed setting aside the impugned order of transfer dated 08.01.2021 of the applicant being Annexure "A-1" hereto as well as the consequent order of release and thereupon further orders be passed directing that the applicant continue in her present place of posting.
(b) Injunction do issue restraining the respondent authorities from acting in any manner or any further manner on the basis of the impugned order of transfer dated 08.01.2021 of the applicant being Annexure "A-1" hereto and/or releasing the applicant from her present place of posting.
(c) A direction do issue upon the respondents to produce and/or cause to be produced the entire records relating to the case and upon such production being made to render *conscionable* justice by passing necessary orders;
(d) Cost and costs incidental hereto;
(e) And/or to pass such other or further order or orders as to your Lordships may seem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. The facts of the matter, in brief, as articulated by Ld. Counsel for the applicant is that, the applicant is an AE (C) in APWD and she has four years of service left prior to superannuation. The applicant was posted at the office of CE, APWD, Port Blair since 5.7.2018 but was directed to move to PRI, South Andaman vide transfer orders dated 8.1.2021 (Annexure A-1 to the O.A.).

Aggrieved with such transfer order, the applicant represented on 13.1.2021 at Annexure A-2 to the O.A.; another representation dated 15.1.2021 followed referring to her posting details since her appointment in APWD (Annexure A-2 to the O.A.).

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In her representations, the applicant would aver that her elderly and ailing mother requires constant care. Further, the applicant had already served both at Campbell Bay and Mayabunder. Her re-transfer to PRI, South Andaman is hence unjustified and she had accordingly prayed for retention at her present place of posting for a period of one year.

In support of her claim, the applicant would allege that the acts of the respondent authorities in transferring her is in violation of the norms of service jurisprudence, has no nexus with public interest, is discriminatory in nature and, therefore, deserves judicial review by this Tribunal.

4. Id. Counsel for the respondents, during hearing, would submit that the distance between her present place of posting and to her transferred place of posting is reasonable and would cite a decision of this Tribunal in O.A. No. 84/AN/2014 in the matter of *Salesh Kumar Singh v. M/o. Urban Development (A&N Admn.)* in support.

The respondents would also bring on record documents to establish that, although relieved from 15.1.2021 (afternoon), the applicant is forcefully trying to attend the office at her earlier place of posting, causing disturbance to office work in general.

5. As held in *N.K. Singh v. Union of India & ors., (1995) 1 LLJ 854* as well as *Abani Kanta Ray v. State of Orissa, 1995 Supp (4) SCC 169*, it is settled law that transfer, which is an incident of service, is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer. The Hon'ble Apex Court had further directed that challenge in Courts of a transfer, when the career prospects remain unaffected, and also where there is no detriment to the government servant, must be eschewed, and interference by courts should be rare. Such interference may be made only when a judicially manageable and permissible ground is made out.

In the instant matter, the applicant has alleged that her transfer has been caused by extraneous consideration and has no nexus to public interest. We find upon an

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inspection of Annexure A-1 to the O.A., however, that the transfer order dated 8.1.2021 has transferred 28 incumbents including the applicant "in public interest". Hence, the allegation that extraneous considerations guided her transfer order, does not hold good.

Upon examination of the same transfer order, we find that, inter alia, one Shri Sanjeev Lingam as well as one Shri Sudipta Saha has also been transferred to PRI, South Andaman and that one Mr. M. Selvamani had been transferred from Port Blair to CD, Diglipur. Hence, the claim that the applicant has been singled out and discriminated against in the said transfer order is not substantiated.

The applicant, in her representation dated 15.1.2021 (at Annexure A-2 to the O.A.), has pointed out that since her appointment, she has moved through 10 places of posting prior to her posting at CE's Office APWD, Port Blair. We find, however, upon examination of the posting details, as furnished by the applicant herself, that the applicant was at APWD, Port Blair between May 1989 to July, 1998, in the Planning Unit at Port Blair between August, 2003 and October, 2005, again in Planning Unit of APWD, Port Blair between August, 2006 to November, 2011, at APWD, Port Blair between November, 2011 to November, 2016 and in the CE's Office, APWD, Port Blair since 5.7.2018 till 15.1.2021. Her intermediate postings at Rangat, Chennai, Diglipur, Campbell Bay and Mayabunder had hardly lasted from a few months to few years.

Hence, the applicant's assertion that the settled norms of service jurisprudence have been violated in her case of transfer order is not supported by her posting details.

Hence, the applicant has not been able to establish discrimination, arbitrariness, violation of transfer norms or malafide in the context of her transfer order.

Accordingly, her prayer fails.

6. We therefore direct the applicant to join her posting at PRI, South Andamans without any further delay. In the Tribunal's order furnished before us by the respondents in *Salesh Kumar Singh (supra)* the application was dismissed on the ground that the applicant was transferred from one office to another with a distance between

the two offices being only of two kilometres. In the instant matter also, Ld. Counsel for the respondents would repeatedly contend that, even if transferred to PRI, South Andaman, the applicant's transfer would not involve any travel involving significant distance and that her apprehensions are baseless. In the light of such submissions, the respondent authorities are therefore directed to ensure that, once the applicant joins her posting at PRI, South Andaman, she may be allowed to discharge her field duties within a reasonable distance from her earlier place of posting at Port Blair.

7. With these directions, the O.A. is disposed of. No costs.



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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