

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 23rd day of August 2002

Original Application no. 934 of 2002.

Hon'ble Maj Gen K K Srivastava, Member (A).

Dr. (Mrs.) Natasha Verma,
W/o Dr. N.K. Singh,
R/o House No. 3/504, Near Ice Factory,
Kela Nagar, Chauraha, Marris Road, Opp. Taj Nursing Home,
ALIGARH.

... Applicant

By Adv : Sri R Trivedi,

Versus

1. Union of India, through the Secretary,
The Government of India,
Ministry of Health & Family Welfare,
NEW DELHI.
2. The Secretary to the Government of India,
Ministry of Home Affairs,
NEW DELHI.
3. The Director General of Assam Rifles,
Headquarter, Shillong.
4. The Deputy Director (Admn.),
Assam Rifles, Shillong-11.

... Respondents

By Adv : Sri R C Joshi & Sri P Krishna

ORDER

Hon'ble Maj Gen KK Srivastava, AM.

In this OA, filed under section 19 of the AT Act, 1985, the applicant has prayed that the Director General Assam Rifles (in short DGAR) be directed to relieve the applicant forthwith for joining ~~SM~~ CGHS, Delhi in pursuance of the order dated 29.1.2002 passed by Govt. of India, Ministry of Health and Family Welfare, New Delhi. (here in after referred as Ministry).

2. Sri R Trivedi, learned counsel for the applicant submitted that the applicant was selected in May 1998 through Union Public Service Commission (in short UPSC) for the post of Medical Officer. The appointment letter was issued by the Ministry on 1.4.1999, posting the applicant at 31 Assam Rifles, Lokhera, under DGAR, Shillong ^{which she joined} on 18.4.1999. The applicant was subsequently transferred from 31 Assam Rifles Shillong to Nagaland, Zakhama at 29 Assam Rifles, in the month of August 2000. Learned counsel for the applicant submitted that the applicant has been working continuously in hard and disturbed area of North East for more than three years. Learned counsel for the applicant submitted that the applicant ^{applied for choice} posting because her husband is working at Aligarh ^{and staying there} with her 3½ years old child. Besides suffering from acute Bronchial Asthma, she is not able to discharge obligations towards her small child as well as her husband. It is not ^{feasible} ^{to stay} ^{alone} at Zakhama with her small child.

3. Learned counsel for the applicant submitted that the applicants claim is genuine. Her transfer to CGHS, New Delhi has been ordered on extreme compassionate grounds. ^{not} In case the applicant is ^{not} relieved to join at CGHS, New Delhi, the applicant will be put to avoidable hardship.

4. ^{Addl. standing counsel, the} Sri P Krishna, ^{learned} counsel for the respondents tried to defend the action of respondents no. 3 & 4 ^{on the} ^{ground} ^{submitted} that the applicant will be relieved subject to administrative convenience.

5. Heard learned counsel for the parties and perused records.

6. Admittedly, the applicant is serving in North East Area since 18.4.1999 under respondent no. 3. She also applied for compassionate posting to her Cadre Controlling Authority on 25.9.2000 explaining the compelling circumstances under which she filed her representation to the Competent Authority for her transfer to a choice station especially on medical ground and also due to family problems. When nothing was being done by the Competent Authority, the applicant filed OA no. 81 of 2001 before ^{of this Tribunal} Guwahati Bench. The Guwahati Bench of this Tribunal after considering the entire facts and circumstances directed the authorities concerned ^{to} decide the applicants representation within a period of four months by order dated 3.8.2001. In pursuance of the said direction of Guwahati Bench of this Tribunal, the authorities passed the order dated 29.1.2001 (Ann A6), transferring the applicant ~~service~~ from Assam Rifles to CGHS, Delhi. The Ministry vide letter dated 20.3.2002 has directed the DGAR that the applicant may be relieved immediately, but no action has been taken by respondent no. 3 in this regard. The applicant has also sent representations to DGAR on 22.2.2002 and 10.6.2002. It is unfortunate that the respondent no. 3 did not give any consideration to the grounds advanced by the applicant in her above mentioned representations.


7. The Govt. of India, Ministry of Finance vide its OM no. 20014/3/83-E-IV dated 14.12.1983 has laid down as under :-

"Subject : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region, improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for sometime. The Government had appointed a committee under the chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements, the recommendations of the committee and the President is now pleased to decide as follows:-

Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service. Periods of leave, training, etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a Station of their choice as far as possible. The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region will generally be for 3 years, which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended."




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Therefore, in terms of the OM referred to above the applicant though serving for less than 10 years of service but having completed more than 3 years of tenure in North East Sector is entitled for a shift. The action of respondent no. 3 in not relieving the applicant for her new place of posting i.e. New Delhi is neither justified nor correct. The applicant is entitled for protection.

8. In the facts and circumstances and my aforesaid discussions the OA is allowed. The respondent no. 3 is directed to relieve the applicant within a week from the date of communication of this order. The applicant is also directed to clear all the dues, if any, pending against her towards the respondents establishment.

9. There shall be no order as to costs.



Member (A)

/pc/