

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 29th day of August 2002.

Original Application no. 961 of 2002.

Hon'ble Mr Justice RRK Trivedi, Vice.Chairman
Hon'ble Maj Gen KK Srivastava, Member (A)

Anand Shanker Prasad Sinha,
S/o Sri S Prasad,
R/o Kashipur Bangra, Samastipur,
State Bihar (Presently posted as Superintending Engineer,
Central Water Commission, Akashdeep, Pannal Lal Park,
Distt. Varanasi.

... Applicant

By Adv : Sri S Kumar

Versus

1. Union of India, through its Chairman,
Central Water Commission, Seva Bhawan,
RK Puram, New Delhi.
2. Sri RDS Yadav, Presently posted as FFM,
Director, Central Water Commission, New Delhi.

... Respondents

By Adv : Sri RC Joshi.

O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA, filed under section 19 of the AT Act, 1985, the applicant has challenged order dated 16.8.2002 by which he has been transferred from Varanasi to New Delhi and respondent no. 2 has been transferred to his place.

2. The grievance of the applicant is that the impugned order of transfer has been passed during mid^{of a} academic session. ^{children} The ~~children~~ of the applicant ^{are} ~~has been~~ studying at Varanasi and it is difficult to shift them at this juncture. It is

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also stated that one handicapped child is getting special treatment at Varanasi which shall be discontinued. Learned counsel for the applicant has placed reliance on the judgment of Hon'ble Supreme Court in case of Director of School Education Madras and others Vs. O Karuppa Theyan and others, 1994 Supp (2) SCC 666. The Hon'ble Supreme Court in the above case has held as under :-

"The tribunal has erred in law in holding that the respondent employee ought to have been heard before transfer. No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel for the respondent, contended that in view of the fact that respondent's children are studying in school, the transfer should not have been effected during mid academic term. Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year. We, therefore, while setting aside the impugned order of the Tribunal, direct that the appellant should not effect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs."

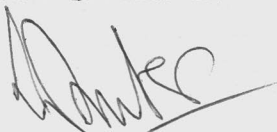
3. In our opinion the circumstances of the present case are squarely covered by the judgment of Hon'ble Supreme Court. From the impugned order it is not clear that there is any urgency on the part of the respondents to effect transfer during mid ^{of} academic session.

4. Before coming to this Tribunal the applicant has filed representation before Chairman, Central Water Commission,
.....3/-

copy of which has been filed as annexure 5., which has not yet been decided. In our opinion the ends of justice will be served if the Chairman Central Water Commission is directed to decide the representation of the applicant by a reasoned order in the light of observation of Hon'ble Supreme Court within specified period.

5. The OA is disposed of finally with the direction to the Chairman, Central Water Commission to consider and decide the representation of the applicant by a reasoned order within a period of one month from the date copy of this order is filed. The order of transfer shall be kept ^{in abeyance} in ~~abaince~~ for a period of six weeks or till the representation is decided which ever is earlier. The applicant shall serve a copy of this order on Chairman, Central Water Commission within 10 days, alongwith copy of the representation.

6. There shall be no order as to costs.


Member (A)


Vice-Chairman

/pc/