

I/o

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.**

Original Application No. 216/2005

Date of Order: 18.11.2005

Coram:

Hon'ble Mr. J K Kaushik, Judicial Member.

Dr. (Smt.) A.K. Joshi W/o Dr. K.C. Joshi, aged about 44 years, by caste Joshi, presently working as Chief Medical Officer, P&T Dispensary, Jodhpur, resident of Veer Mohalla, Jodhpur.

Applicant.

Mr. Manoj Bhandari, Counsel for applicant.

VERSUS

1. Union of India through-the Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Assistant Director General (S.G.P), Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
3. The Principal Chief Post Master General, Rajasthan Circle Jaipur.
4. The Post Master General near U.I.T. Circle, Jodhpur.

Respondents.

(Mr. M.Godara, Proxy Counsel for
Vinit Mathur, Counsel for respondents.)

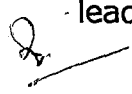
ORDER

Per Mr. J K Kaushik, Judicial Member.

Dr. Smt. A.K. Joshi has, inter alia, assailed the order dt. 11.07.2005 through which she has been ordered to be transferred from the post of Chief Medical Officer, P&T Dispensary, Jodhpur to the post of Chief Medical Officer, P&T Dispensary NO. 1 Jaipur and an order dt. 04.2.2005 at Annexure A/5 and has sought for setting aside the same amongst other reliefs.

2. With the consent of the learned counsel for both the parties, this case was taken up for final disposal at the stage of admission, keeping in view the urgency in the matter. I have accordingly heard the arguments advanced at the bar and have carefully perused the pleadings and records of this case.

3. Skipping up the superfluities, the indubitable material facts leading to filing of this case are that the applicant is presently holding





the post of Chief Medical Officer at P&T Dispensary Jodhpur. She is faced with certain peculiar domestic problems inasmuch as her husband had underwent kidney transplant operation and remains under constant medical treatments. The applicant's daughter is studying in Lachoo College, Jodhpur in B.Sc. Final (Electronics). The options were invited by the respondents for giving the choice place of posting in accordance with the provisions of rotational transfer policy. The applicant gave her option for her transfer to Jaipur clearly indicating her problems. It was also followed by another letter dt. 25.2.2005 with an assertion that her presence at Jodhpur was imperative.

4. The respondents have ordered transfer of the applicant from Jodhpur to Jaipur vide order dt. 11.7.2005 at Annexure A/1, without taking any action on the aforesaid representation. Hence this Original Application has been filed on diverse grounds mentioned in Para 5 and its sub paras.



5. As regards the variances in facts, it has been averred by the respondents in the reply that as per the policy in vogue the normal tenure is of 4 years in office and 6 years at the station. It was noticed that large number of doctors were working at the same station for more than 15 years and this aspect was noticed and observed by the Vigilance Wing of the respondents' department and the Rotational Transfer policy was given effect to. The applicant has been working ever since 1998 at Jodhpur. It has also been averred that the scope of the judicial review in the transfer matter is quite limited and in the present case, the applicant has been transferred in the interest of service keeping in view her option under rotational transfer policy. Therefore, no interference is called in the matter. The reply is followed by a detailed rejoinder.

[Signature]

1/2

6. The learned counsel for the applicant has been quite brief and fair in making his submissions and he laid stress only on the ground that the transfer order has been made in mid academic term session and keeping in view the judgment of the Apex Court in case of **Director of School Education vs. O. Karuppa Thevan** reported in 1996(1) SLR 225(SC), the applicant ought to have been retained at Jodhpur till the end of the academic session since there is no urgency that the applicant should be immediately relieved to join at Jaipur. He has also pointed out that in respect of Dr. B. Jaina, the transfer order was challenged and as per his information even the order of the transfer in respect of him has been withdrawn. Thus the very rotational transfer policy becomes questionable.

On the other hand, the learned counsel for the respondents has submitted that the applicant has been remaining at Jodhpur for about 16 long years and her service is urgently required at Jaipur and the respondents have serious objection to the same. Retaining her at Jodhpur any further would mean giving premium to her due to delay in implementation of the transfer policy. Therefore, there is no justification in the submissions of the learned counsel for the applicant.

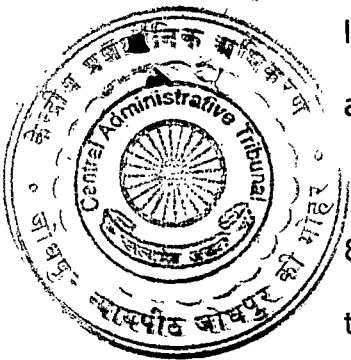
7. I have considered the rival submissions put forth on behalf of both the parties. Admittedly, this is a case of transfer where the rotational policy has been given effect to. The policy was framed long back but the same seems to have been remained in the cold storage and it is only when the vigilance department has pointed out, the respondents became wiser and took recourse to give effect to the same. This clearly indicates that the applicant is only ordered to be transferred because the rotational transfer policy is being ^{given} effect to when vigilance department of respondents has so pointed out. Otherwise, there was no emergent requirement for her transfer. No doubt the applicant is being transferred to the place of her choice as per her option but the transfer order having been issued on



2

110
B

11.07.2005 is definitely in the mid of school academic session. The position regarding the daughter of the applicant is also clear that she is studying in B.Sc. Final examination at Jodhpur. From the aforesaid discussion and the facts and circumstances gathered from the reply and the submissions made on behalf of the respondents, I find that the exigency of the service are not so urgent that the respondents cannot await joining of the applicant at new place until the end of the school academic session. The judgment of the Apex Court in case of **Director of School Education** (supra) is being relied upon by the learned counsel for the applicant fully applies to the facts of this case and therefore, there is substance and appeals to the reason.



8. In the premises, the respondents are directed to keep the transfer order dt. 11.7.2005 at annexure A/1 in abeyance till the end of the school academic session i.e. ^{upto} 31st May, 2006. The interim order passed earlier gets merged in this order and the applicant shall be relieved immediately thereafter. The Original Application stands disposed of accordingly but with no order as to costs.

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

LG/-

Part II and III destroyed
in my presence on
under the supervision of
section officer () as per
order dated/...../.....

Section officer (Record)

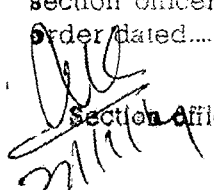
R/cg y

Q

24/11/13-

Placed
in
28/11/13

Part ~~2~~ III destroyed
in my presence on 21/11/14
under the supervision of
section officer (1) as per
order dated 18/11/13


Section Officer (Record)