

X

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 129/2010  
JODHPUR: THIS THE 27th DAY OF JULY, 2010**

**CORAM  
HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER**

.....  
Sunil Kumar Joshi S/o Shri B.K. Joshi, aged 50 years, resident of Kha-7, Housing Board Colony, Vistar Yojna, Bhagat Ki Kothi, Jodhpur. Applicant was posted as Assistant Garrison Engineer (Building and Road) at GE Banar (MES Army).

.....**Applicant**

**Versus**

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, Government of India, New Delhi.
2. The Engineer-in-Chief, Military Engineering Services, Integrated Headquarter of MOD (Army) Kashmir House, DHQ, PO New Delhi - 11.
3. The Directorate General (Personnel), Military Engineer Services, Engineering in Chiefs Branch, Integrated Headquarter of MOD (Army) Kashmir House, HHQ, PO New Delhi - 11.
4. The Deputy Director General Pers/EIB Military Engineer Services, Engineer-in-Chiefs Branch Integrated – Headquarter of MOD (Army), Kashmir House, DHQ, PO New Delhi.

.....**Respondents.**

**Present :**

Mr. N.S.Acharya, Advocate, present for the applicant.  
Mr.Kuldeep Mathur, Advocate, present for the respondents.

**ORDER (ORAL)  
[BY THE COURT]**

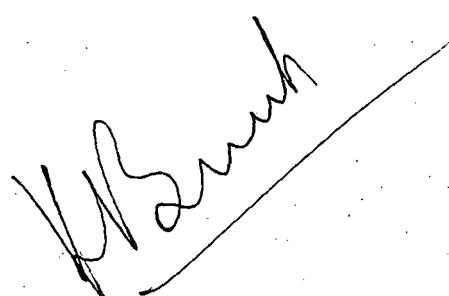
Heard both the counsels.

V.B.

- 2 -

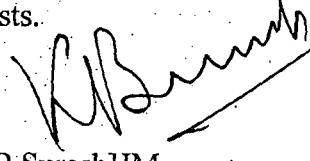
2- It would appear that after the Tribunal had dismissed the claim of the applicant, he had approached the Hon'ble High Court and the High Court while dismissing the Writ Petition No. 2527/2010, had directed that a facility of representation be allowed to the applicant. It would appear that, thereupon, he had represented to the authority to re-consider the matter. Following this, vide Annex. A/2 dated 29<sup>th</sup> March, 2010, the authorities seems to have considered this issue and have rejected applicant's representation. The learned counsel for the applicant would point-out that the applicant's mother is aged about 80 and there is no one to look-after her. He would claim that in Poonch (Jammu & Kashmir) where he is presently posted, no proper medical facilities are available so he requests that in the light of non-consideration of this valid point in the speaking order passed on 29<sup>th</sup> March, 2010 (Annex.A/2), the respondents may be directed to re-consider this matter. At this point of time, Mr. Kuldeep Mathur, representing the respondents, pointed-out that the applicant vide his application dated 16<sup>th</sup> March, 2010, had given choice of three stations. Mr. Mathur further stated that except 'Samana', which is also one of the choice stations as given by the applicant, the applicant cannot be accommodated because vacancy is not available there.

3- Having heard the matter in detail and taking in the spirit of the constitutional mandate of Articles 20 and 21, I think that this is proper to direct the respondents once again to see whether the applicant can be accommodated at a station which is available to him as per the Guide-lines and also at a place where adequate medical facilities are to be found. The right of this posting, I would say, enures not from the right of the applicant but, in respect of the mother of the applicant who is a senior citizen and in need of medical aid and assistance. While dealing with administrative matters, it behoves the authorities to have the constitutional background in mind. The respondents shall, therefore, take an objective and constitutionally complete look in this regard and thereafter,



✓

shall pass a speaking order after considering all the relevant in-puts like availability of vacancy, availability of medical facilities at such place(s) and also the transfer-guidelines for transferring an individual. The O.A. is disposed of to the above extent. This exercise shall be carried-out by the respondents within a period of two months from the date of receipt of a copy of this order. No orders as to costs.

  
[Dr.K.B.Suresh]JM

j



दिनांक 17/12/16 के आदेशानुसार  
मेरी उपरिलिखे दिनांक 11/12  
को भाग-II का जीवन दृष्टिकोण।

आदेशानुसारी  
कोन्द्रीप ग्रामसंचिक अधिकारी  
जोधपुर न्यायालयीठ, जोधपुर