

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.419/2007

Thursday, November 14, 2007

CORAM :

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

- 1 C.V.Gopi
 Administrative Officer,
 Quarter No.2 Type 4, G C,
 CRPF, Pallipuram. ... Applicant.

By Advocate Mr.C.Muralikrishnan

V/s

- 1 Union of India represented by
 Secretary to Government of India,
 Ministry of Home Affairs,
 New Delhi
- 2 Director General of Police
 Directorate General,
 CRPF, CGO Complex,
 Lodhi Road, New Delhi
- 3 Deputy Inspector General of Police (Personnel),
 Directorate General, CRPF,
 CGO Complex, Lodhi Road,
 New Delhi
- 4 Inspector General of Police,
 Southern Sector, CRPF, Hyderabad
- 5 The Deputy Inspector General of Police,
 CRPF, Group Centre, Pallipuram,
 Trivandrum
- 6 The Additional Deputy Inspector General of Police,
 CRPF, Group Centre, Pallipuram,
 Trivandrum. ... Respondents

By Advocate Mr.George Joseph ACGSC



The application having been heard on 14.11.2007 the Tribunal on the same day delivered the following

(ORDER)

Hon'ble Mr. George Paracken, Judicial Member

This is the second round of litigation by the applicant against his transfer to New Delhi made vide the Annexure A-6 order dated 12/4/2007. When he approached earlier vide OA No.287/07, it was disposed of on 30/4/2007 with a direction to the 2nd respondent to consider and dispose of his representation dated 2/4/2007 which was duly forwarded by the 5th respondent. It was already mentioned in the aforesaid order that the respondents shall consider his case according to the transfer policy and dispose of the same as early as possible giving details regarding the administrative grounds or public interest involved in his transfer.

2 The respondents have accordingly disposed of his representation vide Annexure A-9 impugned order dated 28/5/2007 stating the factual position as under:-

"3 The present representation of the officer has been examined with reference to his pleas/contentions. It is correct that the daughter of the Officer is suffering with said disorder since 1997 and accordingly he was given due considerations when ever his transfer was ordered. Shri C.V.Gopi, Administrative Officer (IRLA-6365) was allowed to continue in Southern Sector on promotion from Sub Major (Min) to Administrative Officer despite he had completed more than 12 years of service in the Sector on extreme compassionate grounds for arranging treatment to his daughter vide signal No.T.IX.34/2005-Pers 3 dated 11/5/2005. As he had completed nearly 16 years of service in Southern



Sector, he could not be allowed to continue for inordinate period owing to extreme administrative problems which largely relate to deficiency of AO/SO. Further, the problems expressed by the officer in Para 5(ii) and (iii) above are common to all Government servants at this stage of their service and hence do not warrant any extraordinary consideration. As far as his contention in para 5(iv) that he has not completed normal tenure of posting in GC PPM is concerned, it is clarified that he has completed more than maximum 12 years stay in Southern Sector permissible under transfer policy. Further to this out of his 36 ½ years of service, he spent only 2 years of service in hard area and remaining 34 ½ years he has served in soft areas. In that also he served in Southern stationed Offices for more than 16 years as against maximum 12 years permissible as per transfer policy, out of which 10 years have been availed in Pallipuram based Offices. In view of this, his case has attracted the provision contained in Para 6(a) of SO 5/2003 (Transfer Policy), which reflects that an Official can avail postings in a specific Sector for a maximum period of 12 years including the period of terminal posting. The postings has been decided by the Department after due consideration of various factors viz. Vacancy position in various sectors, past service particulars of the officers concerned and administrative exigencies. The department is always inclined to provide better posting to its employees and the same is evident from the previous 34 ½ years posting of the petitioner in CRPF even including present posting. Government servant should also realize that Administrative exigencies always prevail over individual interest especially in such circumstances when the vacancy of AOs/SOs in the force is more than 50% and available Administrative Officers are rationally distributed/rotated due to large number of pending requests for Southern based Offices.

5 In view of the fact that the officer remained posted in Southern stationed Offices for more than 16 years out of his 36 ½ years of service and administrative need as discussed above, his request for retention in GC Pallipuram for another one year cannot be acceded to. As far as his projected problems are concerned, lot of medical facilities including Super speciality Hospitals like AIIMS are available at New Delhi, therefore, he may not have any problems in providing better/specialized treatment to

his ailing daughter and aged mother.

6 I, therefore, find no intrinsic merit in the representation dated 02/04/2007 preferred by Mr.C.V.Gopi, Administrative Officer (IRLA No.6365), and hence, reject the same."

3 The applicant's contention against the aforesaid Annexure A-9 order is that it has been made against the general policy of the Government of India issued by the Department of Personnel Public Grievances and Pension Memorandum dated 18/2/2000 which reads as under:-

"The undersigned is directed to say that there has been a demand that an employed parent of a child suffering from hearing impairment or multiple disability may be given posting to their own preferred linguistic zone or State where educational facility for their hearing impaired or multiple disabled child exists and that too in the same language exists. This demand has been made on the ground that the disabled children may have opportunities of learning in one single language as these children cannot cope up with learning their subjects in more than one language as a result of transfer of their parents from one State to another.

2 The matter has been examined. Considering that the facilities for medical care and education of children with hearing impairment multiple disability may not be available at all Stations such requests from the parents of a child suffering from hearing impairment or multiple disability, may as far as possible, be considered sympathetically. Where however, this may not be possible efforts may be made to accommodate such a Government servant in the same State to the extent possible."

4 I have heard Advocate Mr.Muralikrishnan for the applicant and Advocate Mr.George Joseph for the respondents.

5 The applicant is an Officer working with the CRPF which is a sensitive para medical organisation. Both the combatants and well as the administrative staff officers have to work in tandem for the efficient



discharge of the duties of the organisation and for achieving the desired result. From the reply given to the applicant, it is seen that the respondents have considered the case of the applicant with particular reference to his daughter who is suffering from CEREBRAL PALSY WITH MENTAL RETARDATION. The respondents have also stated that the applicant has been posted to New Delhi where all the medical facilities are available for such children.

6. I, therefore, do not consider that the applicant has any valid ground to challenge the transfer order. However, considering the fact that the applicant's son is a final year student of B.Sc Physics in Government Arts College, Trivandrum and he is on the verge of completion of graduation, the respondents may allow the applicant to continue at the present place of posting for the current academic year ending on 30/4/2008. The applicant shall make necessary arrangements and move to the transferred place on 1/5/2008 or any other date thereafter as the respondents would decide.

7. With the above direction, the OA is disposed of. There shall be no orders as to costs.


(GEORGE PARACKEN)
JUDICIAL MEMBER

abp