

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 464/2010

Dated this the 16th day of June, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

H.Heerabai, W/o Namdev Rangappa Naik
Assistant, Passport Office, Kozhikode
Residing at 34/436, Vighnesh, Puthukudiparamba
Civil Station P.O, Calicut-20

- Applicant

(By Advocate Mr. P.V.Mohanan)

Versus

- 1 Union of India represented by the Secretary
Ministry of External Affairs, New Delhi.
- 2 Joint Secretary (CPV) and Chief Passport Officer
Ministry of External Affairs, New Delhi.
- 3 The Regional Passport Officer, Kozhikode.

- Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

O R D E R

HON'BLE Mrs. K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, presently working as Assistant in the Passport Office at Kozhikode is challenging the transfer order Annx.A3 posting her to Passport Office Malappuram.

- 2 The applicant entered the service of the respondents organisation as a daily rated Lower Division Clerk in 1981 and was regularised in service in 1985. She was promoted as Assistant in the year 2008. It is stated that

ty

the applicant is a resident of Kozhikode and her husband is working in Lakshadweep Development Corporation at Cochin. The son of the applicant is studying in 12 standard and her ailing mother aged 84 years is staying with her. Both her son and the mother require her care and attention. It is further stated that by order dated 22.4.2010 the respondents transferred 24 incumbents from Passport Office Kozhikode to Malappuram based on seniority in which the name of the applicant was not included. It is alleged that under the influence of Union activists the transfer order dated 22.4.2010 was cancelled and a revised transfer order dated 24.5.2010 transferring 25 incumbents from Kozhikode to Malappuram was issued. Thereafter in supersession of Annx.A2 the respondents have issued Annx.A3 order dated 28.5.2010 transferring 25 incumbents to Passport Office Malappuram. The name of the applicant is included in the revised transfer order. She alleged that at the behest of the Union activists her name was included in the transfer order is in violation of the transfer policy. Her husband moved a representation to the 1st respondent requesting for her transfer to Cochin where he is employed in a PSU. The applicant annexed copy of order dated F.No.28034/9/2009-Estt.(A) dated 30.9.2009 (Annx.A8) in support of her contentions that the husband and wife should be posted at same station to enable them to live a normal family life. Instead the applicant was transferred to Malappuram. She alleged that the respondents have violated the seniority norm for transfer while issuing the impugned transfer order dated 24.5.2010. The applicants filed amended OA and produced Annx.A9 pointing out that the incumbents who commenced service from 1.5.1985 are still retained at Regional Passport Office, Kochi. Hence this O.A.

3 The respondents opposed the O.A by filing reply statement. They submitted that seniority has no bearing with transfer to Passport Office, Malappuram whereas it is based on longest stay in a particular station. As regards the personal and domestic problems, it is

74

submitted that the department has primarily given prerogative to the administrative requirements and the transfer is made in public interest and on merits. They further stated that Malappuram is about 50 Kms away from Kozhikode. It is also stated that while opening Passport Office at Malappuram the incumbents who were posted from Kozhikode Office have completed their tenure of 3 years and in their interests the impugned order was issued to transferring them back to Kozhikode. On noticing certain omissions in Annx.A1 and Annx.A2 orders A3 was issued. They have denied any political influence for modifying the transfer order as alleged by the applicant. They further submitted that the applicant has been working at Kozhikode from 1985 onwards i.e about 25 years. It is also stated that the applicant joined in Passport Office, Malappuram on 4.6.2010. Regarding the representation to post husband and wife at the same station, it is submitted that there is no vacancy at Cochin to accommodate her. It is submitted that the transfer order was issued by the competent authority in accordance with the Transfer Policy of 2010 and in public interest. They relied on the judgments of the Apex Court in State of Madhya Pradesh and another Vs. S. Kourav and Other (AIR 1995 SC 1056) wherein it has been held that the Courts or Tribunals are not appellate forum to decide on transfers of officers on administrative grounds.

4 I have heard learned counsel appearing for the parties and perused the record.

5 The undisputed fact is that the applicant a locally recruited person is continuously working in Passport Office Kozhikode for the last 25 years and it is the first time that she has been transferred from Kozhikode



and that too nearby Malappuram. Moreover the applicant joined at Malappuram on 4.6.2010. The respondents according to their submission have taken a decision to fix a tenure of 3 years, to bring all such employee back to Calicut on completion of 3 years in the interest of staff welfare. It is noticed that for the first time she requested for a transfer to Cochin to join her husband vide Annx. At dated 31.5.2010 i.e after the issuance of A3 transfer order dated 28.5.2010. She cannot expect the respondents to accede to her request pronto when there may be many pending requests made prior to hers. Her husband is working at Cochin from 1991. Moreover many officials have been transferred from Cochin to Malappuram office are waiting to be repatriated to Cochin after serving a minimum tenure and their claims cannot be overlooked.


6 It is well settled that the Courts or Tribunal are not appellate forum to decide on transfers of employees on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to places of their choice. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background/foundation. When as in this case, the transfer order is issued on administrative grounds the court cannot go into the expediency of posting an officer at a particular place. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. (State of M.P. and another Vs. S. Kourav and Others (AIR 1995 SC 1056)



7 Keeping in mind the dictum laid down by the Apex Court in transfer matter and in view of the foregoing I do not find any illegality in the impugned transfer order at Annexure A-3. None of the grounds raised is tenable. Accordingly, the O.A is dismissed. No costs.

Dated 16th June, 2011.

kkj


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER