

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 549 OF 2012

Friday, this the 13rd day of July, 2012

CORAM:

HON'BLE Ms.K NOORJEHAN, ADMINISTRATIVE MEMBER

Smt. Gracy Paulose
MES/ 109856
W/o.N.K Paulose, aged 46 years
Junior Engineer (Quality Surveying & Contract)
Office of the Assistant Garrison Engineer (Independent)
Research & Development Military Engineer Service
Thrikkakara Post, Kakkanad, Kochi – 680 021
residing at Nammanaril House
South Vazhakkulam, Aluva – 682 105

Applicant

(By applicant-in-person)

Versus

1. Chief Engineer
Head Quarters, Southern Command
Pune – 411 001
2. Assistant Garrison Engineer (Independent)
Research & Development, Military Engineer Service
Thrikkakara Post, Kakkanad, Kochi – 680 021
3. Garrison Engineer (Project)
No.1, Vasco, Military Engineer Service
Goa – 403 802
4. Union of India, represented by the Secretary to
Government of India, Ministry of defense
New Delhi – 110 001

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 13.07.12., the Tribunal on the same day delivered the following:

ORDER

HON'BLE Ms.K NOORJEHAN, ADMINISTRATIVE MEMBER

1. The applicant is aggrieved by her transfer from Kochi to Vasco. This is the third round of litigation. She filed O.A 1043/11, which was disposed of with a direction to the respondents to reconsider her representation with a view to accommodate her against any of the three choice stations given by her. The respondents after reconsidering her request, rejected the same on the plea that no vacancy is available at Coimbatore. She, therefore, filed O.A 443/12. On the submission of applicant's counsel that vacancies are available at two other choice stations viz; Ezhimala and Wellington, respondents were directed to consider her request for posting to Ezhimala or Wellington and issue suitable revised posting orders forthwith. Her request was once again turned down vide Annexure A-16, which is the speaking order issued by the respondents indicating reasons for their difficulty to comply with the order of this Tribunal. It is mentioned in their order that Ezhimala and Wellington being tenure stations are invalid choices and as per para 3(a) of the Government of India office memorandum No.8(3)/92/D (Appts) dated 28 Jan 94, women employees are exempted from posting to tenure stations. When the case came up for consideration on 05.07.12, the learned senior counsel for the respondents was directed to get a copy of the O.M. A perusal of the O.M shows that it is based on the recommendations given by a Sub Committee which has gone into the posting/transfer problems of MES clerical employees and the demands from JCM side for adjustment of LDCs on their in-situ on promotion to UDC in the same station. The recommendations as accepted by the Government are circulated vide the aforesaid O.M. A few of the guidelines are as below:



" 2. xxxxxxxx

(b) Staff on promotion to be adjusted in the same station (not necessarily in the same unit) provided vacancies as per functional requirements are available in the same station. Alternatively, the promotee be adjusted in one of the three choice stations as far as practicable.

(c) Tenure postings should continue as per present policy except that the affected persons due for the tenure may be allowed to remain in the tenure station till a vacancy arises in their choice station. Such employees may be allowed reduction in the subsequent tenure posting.

(e) For all postings except on administrative grounds including tenure stations volunteers should be called for and they should be given first preference.

3. The female employees will also be covered by the above Policy subject to the under mentioned concession:-

(a) Women employees are exempted from posting to tenure stations.

(b) They are not to be posted to long-distance stations even in the case of their peace to peace posting. "

2. Clause 'b' specifically says that they need not be posted to distant stations. It is amply clear from the above that women employees are exempted from posting to remote and difficult tenure stations as a concession to them. As was pointed out in the order of this Tribunal in O.A 443/12, such a concession should be in favour of the female employees rather than to jeopardize their interests. The applicant is willing to go to Ezhimala. It is seen from other O.As filed before this Tribunal that women employees are being recruited to work in the MES branch of Ezhimala, Naval Academy. In fact, even male employees on

TM

promotion are unwilling to go to Ezhimala. Under such circumstances if a female employee is willing to go there is no reason whatsoever to reject her request. A perusal of the O.M shows clearly that the respondents' department has given due allowance for the problems faced by the MES employees and women in particular as they are subjected to transfer to far away places. A sub Committee was appointed to deliberate upon all such issues in all its dimensions and the government has accepted most of the recommendations. The objective behind effecting routine transfer is to ensure that the vested interests do not develop and administrative requirements are met by getting suitable hands. When the government has modified certain instructions in order to reduce the hardship of the employees due to transfer to distant and hardship stations there is no reason why the benefits of such consideration shown by the government do not flow to the employees. Hence I do not think that the decision by the respondents in not allowing female employees to go on tenure posting to Ezhimala and Wellington is taken in the right perspective.

3. In view of the foregoing, Annexure A-1 order to the extent it relates to the applicant is quashed and set aside. The respondents are directed to issue revised posting orders transferring her to Ezhimala as per her request. Accordingly, the Original Application is allowed. No costs.

(Dated, this the 13th day of July, 2012)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER