

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.326/2007

Friday this the 2 nd day of November, 2007.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

Anil Kumar P.K., S/o PV Krishnan,
Junior Engineer(Civ),
O/o Garrison Engineer(I) Naval Works,
Fort Kochi, Madathikunnel,
SRRA 43A, Society Road,
Maradu P.O., Ernakulam.

Applicant

(By Advocate Shri R.Sreeraj)

Vs.

1. Union of India represented by its Secretary
to Government of India, Ministry of Defence,
New Delhi – 110 011.
2. The Chief Engineer, Military Engineer Services,
Head Quarters, Southern Command, Pune.
3. The Garrison Engineer(I),
Naval Works, Fort Kochi. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC.)

The application having been heard on 2.11.2007,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

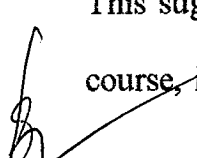
The applicant is aggrieved by the transfer order dated 16th November, 2006 (Annexue A-1) whereby he stands transferred from Kochi to Sambra. At the time when the transfer order was issued, the ward of the applicant was studying in 12th Standard and on that ground coupled with certain other grounds the Tribunal had passed an interim order, keeping in abeyance the transfer order. Respondents have accordingly retained the applicant till date at Kochi itself.

2. Another ground raised by the applicant was that the applicant's daughter is a patient of epilepsy and as such, some escort may be required all through to look after her and thus, the applicant being a native of Kerala, he preferred either no transfer or if transfer is inevitable, to any place within Kerala or the neighbouring States. The applicant had produced medical certificates in this regard, which dates back to 1995. The Neurologist who had initially treated the applicant's daughter in 1995 and later since 2001 has very recently issued a certificate, stating that the said individual has been under medication and would continue to be under such medication for her neuro problems.

3. Counsel for the applicant earlier submitted that, there are vacancies at nearby centres and as such, if the respondents consider accommodating the applicant at such nearby unit, it would facilitate the applicant to attend to his daughter as and when required. He had also submitted that there is surplus at Sambra, where the applicant has been posted.

4. Respondents have contested the OA and tried to justify the transfer of the applicant. Legal provisions have also been referred to therein.

5. Records were called for to ascertain the complement position at Sambra and the records, which are maintained chronologically and sequentially, reflect that due consideration had been given to the case of the applicant. Sambra needs some additional hands as there are vacancies. However, one of the notes does contain a suggestion that vacancies are available at Vizag and Bangalore and if the individual accepts he may be considered for posting to any one of these places. This suggestion, however, has not been accepted to by the higher authority. Of course, it is not known whether the higher authority, while expressing his opinion



was kept informed of the requirement of the applicant's presence at least periodically in view of the ailment the applicant's daughter is suffering. It was therefore, felt appropriate to consider this aspect i.e. posting of the applicant to Bangalore. Accordingly, the case was adjourned to ascertain whether the applicant could give his consent for being posted to Bangalore. While the applicant has answered in affirmative, the counsel for the applicant, while confirming the same, has also submitted that it is not known whether vacancy at Bangalore still remains unfilled. Respondents having at one stage and at a particular level suggested posting of the applicant at Bangalore, keeping into account the poor health condition of the daughter of the applicant, the OA is disposed of with the following directions:-

- (a) The respondents shall consider posting of the applicant at Bangalore, if vacancy is still available.
- (b) The respondents may also consider posting of the applicant to any other nearby places, such as Coimbatore, in case there is vacancy there, *as an alternative.*
- (c) Till such time the above is considered and decided, the applicant be not relieved from the present place of posting.

6. No cost.

Dated the 2 nd November, 2007.


Dr.K.B.S.RAJAN
JUDICIAL MEMBER