

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 376 OF 2009

Wednesday, this the 10th day of June, 2009.

CORAM:

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

P.R.R. Pillai,
UDC, Plant Quarantine Station,
Willingdon Islands, Cochin-3,
residing at C-31, GPRA Quarters,
CPWD, Kunnamperum,
Kakkanad, Ernakulam.

Applicant

(By Advocate Mr. U. Balagangadharan)

versus

1. Union of India, represented by the Secretary, Department of Agriculture and Co-operation, Krishi Bhavan, New Delhi.
2. The Plant Protection Adviser to the Government of India, Directorate of Plant Protection, Quarantine and Storage, NH-IV Faridabad.
3. The Assistant Director (PP), Plant Quarantine Station, Willingdon Islands, Cochin-3.
4. Shri K.D. Rao, UDC, CIPMC, Somajikuda, Hyderabad, Andrapradesh.

Respondents

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 10.06.2009 the Tribunal on the same day delivered the following:

ORDER

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

The applicant presently working as UDC in Plant Quarantine Station, Willingdon Islands, Cochin has filed this O.A. challenging the

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General Transfer Order dated 29.05.2009 whereby he is transferred from PQS, Kochi to CIPMC, Hyderabad. The grounds of attack mainly are as under :-

- a) The applicant has already spent as many as 17 years out his home state.
- b) Some of the transfer guidelines vide Annexure A2 have been violated.
- c) His daughter is a student of State syllabus studying in Plus One locally.
- d) His son is a handicapped person with 60% disability.
- e) The transfer order has been issued after commencement of academic year.
- f) The applicant is a Group 'C' employee and normally transfers are kept the minimum with regard to Group 'C' employees.
- g) There is a vacancy of a UDC available in PQS, Trivandrum itself.
- h) Representation of the applicant vide Annexure A4 is pending.

2. The applicant in his representation dated 5th June, 2009 have referred to all the grounds which have been itemised above. This particular representation does not seem to have been disposed of so far.

3. Counsel for the applicant has submitted at the time of argument that he is being posted to Hyderabad and the present incumbent at Hyderabad is being posted to his place and such transfer may be

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inconvenient to the other candidate as well. In so far as violation of the general guidelines is concerned, the counsel for the applicant has invited the attention of the Tribunal to Sl. No.12 of the guidelines. This has been reflected in his representation dated 05.06.2009 as well. Though specifically, not mentioned in the guidelines, retention or transfer on medical grounds of self or family members is normally considered as per the DoPT guidelines as well and as such the case of the applicant's son deserves full consideration with a view to decide retention of the applicant in the same station.

4. When it was suggested to the counsel for the parties that this application may be disposed of without going into the merits of the case but with a direction to the respondents that before effecting the transfer order, the representation pending with the Department may be considered and disposed of. The counsel for the parties have no objection for the same. Counsel for the applicant emphasized that till such time his representation is considered and decided by the Competent Authority, he be not disturbed from the present place of posting.

5. In view of the fact that most of the grounds as in this O.A. have been raised in the representation of the applicant addressed to respondent No.2, and the fact that the said representation has not so far been disposed of, interest of justice would be served if this O.A. is disposed of at the admission stage itself with a direction to the respondents to consider the representation of the applicant in its proper perspective keeping in view the Policy guidelines (Annexure A2) and other guidelines formulated by DoPT as referred to clause 14 of Annexure A2. Till such time the Competent

Authority considers the representation, the applicant who has not been relieved so far be not relieved.

6. In view of the above, this O.A. is disposed of with the direction to the respondent No.2 to consider the representation dated 05.06.2009 of the applicant in the light of the guidelines of transfer and also taking into account the ailment of the applicant's son and education of applicant's daughter and arrive at a judicious decision and communicate the same to the applicant. Till such time the decision is taken by respondent No.2 and communicated to the applicant, the impugned transfer order at Annexure A3 shall not be pressed into service in so far as the same relates to the applicant. Under the above circumstances, there shall be no order as to cost.

Dated, the 10th June, 2009.



Dr. K.B.S. RAJAN
JUDICIAL MEMBER

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