

(11)

It is further alleged that the respondents have interpreted the decision contained in the communication dated 11.4.91 at Annex.A2 in such a manner that the benefit of exercising option could be extended to Smt. Vandana Kumari Jena, an IAS Officer of 1979 batch. The husband of Smt. Vandana Kumari Jena is a member of the Indian Audit & Accounts Service. Smt. Vandana Kumari Jena belonging to the Manipur-Tripura cadre, was given a chance to exercise her option for the change of cadre despite being a married officer on the ground that her husband belonged to the Central Services. Smt. Vandana Kumari Jena exercised her option and her cadre was changed from the joint cadre of Manipur-Tripura to that of Orrisa State. It is pleaded that the decision to restrict the benefit of changing cadre to single women All India Service Officers allocated to the North-Eastern cadres and Jammu & Kashmir is arbitrary and unreasonable and is violative of Articles 14, 16 and 21 of the Constitution. Since a situation of insurgency still exists in these States and these are disturbed areas, the already tough working conditions have become more accentuated for women officers. The fact that an officer is married or unmarried does not make any difference in so far as the working conditions are concerned. The classification made by the respondents between married and unmarried women All India Service Officers is assailed as being unreasonable, arbitrary and as having no nexus with the object sought to be achieved by the beneficial decision in favour of women officers. Such a classification is artificial and is not based on the principles of intelligible differentia. It is also alleged that the benefit of exercising option to change cadre commencing from 1990 batch has no rationale behind it. Since the women officers of All India Services by themselves are a class, it is also alleged that the application of the decision has resulted in discrimination against the applicant in as much as the single women officers of All India Services belonging to earlier batches having considerable experience of working in these states have been given chance to exercise their option for the change of cadre.

However, the benefit of the decision has been denied to the



applicant for the reason that she is married.

3. The respondents Nos. 1 & 2 did not file any reply. The respondent No. 3 challenged the maintainability of this application on the ground that the Central Government is the best judge and the final authority in the matter of allocation of cadre and transfer of cadre officers from one cadre to another. An IPS officer may be posted anywhere in India and allocated to any State cadre as per the provisions of the Indian Police Service (Cadre) Rules, 1954 (for short the Cadre Rules). The matter of allotment of cadre or transfer of cadre officer from one cadre to another is not justiciable. It is pleaded that no order has been mentioned by which the applicant may be said to be aggrieved and that this Tribunal has no jurisdiction to adjudicate upon the matter of allocation of cadre or transfer of an officer from one cadre to another. No officer has a right to claim the change of cadre. This matter is solely under the jurisdiction of the Central and State Governments. It is further stated that the husband of the applicant Shri Pohit Kumar Singh, an IAS Officer, is also on short term deputation with the Government of Rajasthan at his request and it is quite possible that this application may be a prelude to another application likely to be filed by the husband of the applicant on the ground of the change of cadre of his wife, in case this application succeeds. It is further stated that the Government of India is the Cadre Controlling Authority and it is not only the best judge but the final authority so far as the matter of allocation, re-allocation of cadres and transfer of an officer from one cadre to another is concerned. The classification made between married and unmarried officers is neither unreasonable nor arbitrary but the same is based on sound reasons and that the cut off year of 1990 is also based on reasonable grounds taking into consideration all the aspects of the exigencies of service.

4. We have heard the learned counsel for the parties and ~~Opposite~~ have gone through the records of the case carefully.

North-Eastern States and J & K. In case the option is exercised within a period of four months from the date of this order, the same shall be entertained and decision thereon shall be taken as per rules, also keeping in view the facts and circumstances stated in her representation Annex.A-5, which is still said to be pending.

13. The application is disposed of accordingly. No order as to costs.

  
(O.P.Sharma)  
Member (A).

  
(Gopal Krishna)  
Member (J).

ASL Panjwani  
9 May 94

Recd copy  
Guru Nanak  
Jaswantpur

Recd. copy

Rao  
(Rao Pillai)  
UDC DGP.

What to do  
all info  
nd 28235  
2836

28-5-94

if

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 360/93  
~~Exhibit~~

199

DATE OF DECISION 6-5-1994

Smt. Nina Rani Petitioner

R.N.Mathur Advocate for the Petitioner (s)

Versus

Union of India & Ors Respondent

Mr. U.D.Sharma Advocate for the Respondent (s)  
Mr. K.P.Mishra

**CORAM :**

The Hon'ble Mr. Gopal Krishna, Member (J)

The Hon'ble Mr. O.P.Sharma, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes.
2. To be referred to the Reporter or not ? Yes.
3. Whether their Lordships wish to see the fair copy of the Judgement ? No.
4. Whether it needs to be circulated to other Benches of the Tribunal ? No.

(O.P.Sharma)  
M(A)

Gopal Krishna  
(Gopal Krishna)  
M(J).

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.360/93

Date of order: 6-5-94.

Smt.Nina Rani : Applicant

Vs.

Union of India & Ors. : Respondents

Mr.R.N.Mathur : Counsel for applicant

Mr.U.D.Sharma : Counsel for respondents No.1 & 2

Mr.K.P.Mishra : Counsel for respondents No.3

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl)

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.GOPAL KRISHNA, MEMBER (JUDL).

Applicant Smt.Nina Rani belonging to Indian Police Service (IPS) in this application under sec.19 of the Administrative Tribunals Act, 1985, has prayed that the decision of the Government of India contained in the communication dated 22.7.91 in so far as it restricts the opportunity to change the cadre of married women All India Service officers may be quashed. She has sought a direction to the respondents No.1 & 2 to allow her to exercise her option for the change of cadre from the joint cadre of Manipur-Tripura to any other cadre except the other cadres of the North Eastern States and Jammu and Kashmir, as also for a direction to these respondents to treat the option exercised by her for short term deputation to Rajasthan as option for the permanent change of cadre from the joint cadre of Manipur-Tripura to the Rajasthan cadre. She has further prayed that the respondent No.3 i.e. the State of Rajasthan, may be directed to accept her in its cadre of the Indian Police Service (for short the IPS) against the batch of 1989 of the IPS Officers.

2. The applicant's case may be briefly stated as follows: She is a member of the Indian Police Service and she has been allocated to the joint cadre of Manipur-Tripura. She belongs to 1989 batch of the IPS. She has been sent on a short term deputation for a period of three years to the State of Rajasthan.

She joined her duties on deputation in Rajasthan on 9.6.92. The applicant has married Shri Rohit Kumar Singh, an IAS Officer in the joint cadre of Manipur-Tripura on 28.6.90. Shri Rohit Kumar Singh also belongs to 1989 batch of the IAS and he was undergoing training in Manipur at the time of marriage. In the changed circumstances at the applicant's request, the Government of Manipur gave its consent to post her in that State and she was, therefore posted in the State of Manipur where she joined on 1.10.90 as an IPS probationer. Since the law and order situation in the North Eastern States of India (Assam, Meghalaya, Manipur-Tripura, Nagaland) and in Jammu & Kashmir has been deteriorating for the last few years and conditions are akin to insurgency, and para-military forces have been deployed in these parts of the country, the Civil Services Board in its meeting on 24.9.92 realising the prevailing circumstances in the aforesaid States reviewed the policy of allocation of cadre to women All India Service Officers in the North Eastern cadres of Assam, Meghalaya, Manipur-Tripura, Nagaland and Jammu & Kashmir. The Board recommended that women officers other than the insiders who expressed their willingness should not be allocated to these cadres for the next three years. This decision was applicable for a period of three years commencing from 1990 batch. It was further decided that after three years the position shall be reviewed from 1993 batch and onwards, if necessary. This decision at Annex A-1 also provides that in regard to the women officers to whom cadre has already been allotted i.e. those belonging to batches prior to 1990, the suggestions made by the Civil Services Board (for short, the CSB) will be examined separately. It is averred that the working conditions in the North-Eastern cadres are in general tough but are being faced by women officers in an accentuated form. Considering all the circumstances, the Government of India took a policy of decision that the cadre of women officers All India Services working in these states may be changed and for this purpose such women officers should be given chance to exercise option

to indicate cadres of their preference other than their home State cadre. However, the Department of Personnel in the Govt. of India, decided to give chance to change cadre to those women officers who are unmarried. Pursuant thereto the single women All India Service Officers allotted to different cadres of the North-Eastern States and Jammu & Kashmir were asked to exercise option for the change of cadre. Document at Annex.A-2 reveals that single women officers belonging to 1975, 1980, 1987 and 1989 batches were given the benefit under the policy to change their cadre. Since the applicant got married on 28.6.90, she was deprived of this benefit. However on 22.7.91, the respondent No.1 sent a letter to the Govt. of Manipur, wherein it was stated that since the women officers working in the State are facing tremendous difficulties, it was decided that probationers would not be allocated to North-Eastern States for a period of 5 years commencing from Civil Service Examination, 1989 (1990 batch). It was also decided that single women officers allocated to these regions would also be allowed to change their cadre to any other State other than their home State but in respect of women officers of All India Services, married to officers of All India Services, change of cadre permanently has been denied and instead a short term deputation to any other State except the home State has been provided vide Annex.A-3. The applicant is the only woman IPS Officer not only in the joint cadre of Manipur-Tripura but in the entire North-Eastern Cadres as Miss Vandana Malik, an IPS Officer allocated to the joint cadre of Manipur-Tripura was killed by the insurgents. Since the home State of the applicant is Bihar and the home State of her husband is Uttar Pradesh, the applicant had to exercise option for a short term deputation to the State of Rajasthan. The mother of the applicant represented to the respondents Nos.1 & 2 for permanent change of the applicant's cadre vide Annex.A-4 but it yielded no results. Thereafter, the applicant herself made a representation on 23.4.93 vide Annex.A5. Her case for the change of cadre and retention in Rajasthan has been recommended by the Director General of Police, Rajasthan.