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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.423/95

Date of order: 28.5.99

1. Smt Nina Singh, W/o Shri Rohit Kumar Singh, aged around 30 years, resident of 621, Shiv Marg, Bani Park, Jaipur.
2. Rohit Kumar Singh, S/o late Shri Rajaram Singhji, aged around 31 years, R/o 621, Shiv Marg, Bani Park, Jaipur.

...Applicants.

Vs.

1. Union of India through Secretary, Ministry of Personnel, Public Grievances & Pensions, Deptt. of Personnel & Training, Govt. of India, North Block, New Delhi.
2. Secretary, Ministry of Home Affairs, North Block, Govt. of India, New Delhi.
3. The State of Manipur through Secretary, Deptt. of Personnel, Govt. of Manipur, Imphal (Manipur).
4. The State of Tripura through Secretary, Deptt. of Personnel, Govt. of Tripura, Agartala (Tripura).
5. State of Rajasthan through Secretary, Deptt. of Personnel, Govt. of Rajasthan, Jaipur (Rajasthan).

...Respondents.

Mr.Paras Kuhad - Counsel for applicants

Mr.S.S.Hasan - Counsel for respondents Nos.1 & 2

None present for respondents Nos.3 & 4

Mr.U.D.Sharma - Counsel for respondent No.5

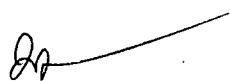
CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

This application is an outcome of the findings of and directions given by this Tribunal in an earlier O.A No.360/93 filed by applicant No.1, Smt.Nina Singh, to quash and set aside the



decision of Govt. of India which finds place in communication dated 22.7.91 (Annx.A5) in so far as it restricts chance to change the cadre to married women All India Service Officer; the decision taken by the Govt of India dated 25.10.94 (Annx.A1) rejecting her representation; and the order dated 11.8.95 (Annx.A2) issued by Govt of India, Ministry of Home Affairs whereby applicant No.1 has been directed to repatriate ^{to} her parent cadre in the Manipur Govt. A further direction has also been sought against the respondents to change cadre of the applicant from Joint Cadre of Manipur-Tripura to the State of Rajasthan or in the alternative to the State for which the applicant has exercised her option.

2. The facts which give rise to this application are largely not in dispute. Applicant No.1, Smt.Nina Singh is an IPS Officer of 1990 Batch and allotted to Manipur-Tripura Cadre in April 1990. She married applicant No.2, Rohit Kumar Singh, an IAS officer of 1989 Batch of Manipur Tripura Cadre on 28.6.90. She joined Manipur-Tripura Cadre on 1.10.90.

3. Consequent upon a letter by respondent No.1 dated 22.7.91 (Annx.A5) to the Govt of Manipur to the effect that the Govt has decided not to allocate any cadre of North-East to women probationers of All India Service for a period of 5 years commencing from the 1990 Batch while permitting single women officers of All India Service to permanently change their cadre and married women were enabled to sent on short term deputation to any other States except home-State; applicant No.1, exercised her option on short term deputation for the State of Rajasthan and joined respondent No.5, the State of Rajasthan in the year 1992. Finding that the Civil Services Board in its meeting held on 24.9.90 has reviewed the policy of allocating cadre, to women All India Service Officers in North-East Cadre, the decision whereof finds mention in letter dated 16.1.91 (Annx.A3), ^{and} An view of

another communication of the Deptt. of Personnel dated 11.4.91 (Annx.A4) the mother of applicant No.1 made a representation (Annx.A6) to respondent No.1 asking for permanent allotment of Rajasthan Cadre to the applicant.

4. The applicant in her turn finding that one Smt.Vandana Kumari Jaina, an IAS officer of 1979 Batch having allotted the Manipur-Tripura Cadre was permitted to permanently change her Cadre from Manipur-Tripura to Orissa on the ground that her husband belong to Indian Audit and Accounts Service (a Central Service) and aggrieved by her short term deputation in the State of Rajasthan, filed O.A No.360/93, before this Bench of the Tribunal. This O.A was decided by order dated 6.5.94 (Annx.A8) holding that:

- i) Smt Vandana Kumari Jena, belonging to the same class and being member of All India Services having allowed to exercise option for permanent change of Cadre; whereas applicant No.1 was allowed only a short term deputation; it makes an unreasonable classification between women officers whose husbands belong to All India Services and those whose husbands belong to other categories of the Civil Services.
- ii) Denial of opportunity to exercise option for permanent change of Cadre to the applicant who is the only married IPS officer in the entire North-East States, is unjust and unreasonable.
- iii) Directing respondent^{1 and 2} No.2 to allow the applicant to exercise her option for the permanent change of Cadre from Joint Cadre of Manipur-Tripura to any other Cadre except the other Cadres of the North-East States and J&K; if such an option is exercised within a period of 4 months from the date of this order, and to take a decision thereon as per rules keeping in view the facts and circumstances stated in

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her representation pending consideration.

5. Applicant No.1 exercised her option for change in the Cadre on permanent basis on 28.5.94 (Annx.A10). Her representation having ~~not~~^{not} been considered, she filed a Contempt Petition before this Tribunal. Meanwhile her representation having been rejected by the Govt. of India by the impugned order dated 25.10.94 (Annx.A1); the Contempt Petition was also rejected by the Tribunal against which an SLP ~~was~~ filed before Hon'ble the Supreme Court was also dismissed vide order dated 10.5.95. The applicant filed another SLP before Hon'ble the Supreme Court against the decision of O.A No.360/93 and filed another O.A before this Bench on 15.5.95 being O.A No.203/95 and thereafter filed a Writ Petition under Article 32 of the Constitution before Hon'ble the Supreme Court on 16.5.95 (Annx.A11). Since the notices were issued by Hon'ble the Supreme Court in the SLP, O.A No.203/95 was withdrawn with the liberty to file a fresh O.A on 18.7.95 and the Writ Petition was also dismissed as withdrawn on 14.7.95 as an SLP has been filed by the applicant. When order dated 11.8.95 (Annx.A2) was issued by the Govt. of India, repatriating the applicant to her parent Cadre of Manipur-Tripura, she filed an application for interim relief before Hon'ble the Supreme ^{Court} whereby order of status quo was issued. The SLP filed by the applicant was also dismissed by Hon'ble the Supreme Court on 8.9.95 mainly on the ground of gross delay in filing it and also holding the judgment of the Tribunal being not bad on merits.

6. Feeling aggrieved, the applicants have now approached the Tribunal to claim the aforesaid relief.

7. The application has been mainly opposed by respondents Nos.1 & 2 on the one hand and also by respondent No.5 by filing separate written replies. None has put appearance on behalf of respondents Nos.3 & 4 nor any reply has been filed by them.

8. The stand of respondents Nos.1 & 2 has been that the

representation of the applicant was considered in accordance with the rules and govt policies and has been rejected on a valid basis since both the applicants herein being husband and wife and belong to All India Services and borne on the same Cadre of the North-East States. It has, therefore, been urged that the O.A deserves rejection.

9. Respondent No.5 has filed its reply and states that the relief sought for by the applicants in the O.A do not pertain to the State of Rajasthan. The Tribunal may adjudicate the matter as it deems fit in the facts and circumstances.

10. We, therefore, heard the learned counsel for the applicant Mr.Paras Kuhad, Mr.S.S.Hasan, counsel for respondents Nos.1 & 2 and Mr.U.D.Sharma, counsel for respondent No.5 and have examined the record in great detail.

11. On the background of the facts as narrated above, following questions are to be determined in this Application:

- i) Whether the finding given by the Tribunal in O.A No.360/93 filed by applicant No.1 and decided on 6.5.94, that denial of opportunity to enable applicant No.1 to exercise her option for permanent change of Cadre has been unjust and unreasonable while allowing it to one Mrs Vandana Kumari Jena; makes it also unreasonable classification between women officers whose husbands belong to All India Services and those whose husbands belong to other Categories of Central Services; has become final.
- ii) Can the Central Govt be directed now to issue necessary orders in respect of applicant No.1 to change her Cadre from Joint Cadre of Manipur-Tripura to the State of Rajasthan or in the alternative to the State for which the applicant has exercised her option after the aforesaid decision.

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12. It has been vehemently argued by the learned counsel for the applicant that on the one hand the Civil Services Board had recommended that all women officers in the All India Services should be given an option to switch their cadre and need protection from the hostile conditions prevalent in the North-East Cadre; yet the policy decision taken by the government as reflected in communication dated 22.7.91 (Annx.A5) makes an unreasonable classification between the 'single' and 'married' women officers. While the former are permitted to permanently change their Cadre ^{but} ~~and~~ the latter at best can go for a short term deputation of 3 years. It has also been urged that the factum of marriage has been made the basis of differentiation which is neither intelligent nor is related to the object sought to be achieved. It has, therefore, been argued that the impugned letter dated 25.10.94 totally ignores the contentions of the applicant and it simply states that "the policy of inter-cadre transfer envisages such transfers only when two IAS officers, belonging to two different cadres marry, therefore, the case of Smt.Nina Singh is not covered by the afore said orders", and ignores the policy decision vis a vis hostile cadres of North-East and J&K. It has, therefore, been urged that this application be allowed.

12. As against this, the contention of the learned counsel for respondents Nos.1 & 2 has been that there is no fault in the issuance of the impugned letter dated 25.10.94 rejecting the representation of the applicant (Annx.A1), nor the issuance of letter dated 11.8.95 (Annx.A2) or for that matter in communication dated 22.7.91 (Annx.A5) which have been in consonance with the rules applicable to the applicant.

13. Mr.U.D.Sharma, the learned counsel for respondent No.5 has stated that most of the averments made by the applicant do not

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pertain to the State of Rajasthan and that the State Govt would come into picture only when a proper reference is received from the Central Govt under Rule 5(2) of the IAS (Cadre) Rules, 1954 and a final decision in the matter would be taken.

14. We have given anxious ^htought to the arguments addressed to the Court by the learned counsel for the parties and have carefully gone through the material on record.


15. It is apparent that after the decision of this Tribunal dated 6.5.94 in O.A No.360/93, neither the Central Govt nor any of the other respondents, including the State Govt, challenged the order of the Tribunal before Hon'ble the Supreme Court. It was only the applicant who filed an SLP which was dismissed by Hon'ble the Supreme Court; without interfering in the decision of the Tribunal rendered on 6.5.94. The findings in O.A No.360/93 have become final and now it does not lie in the mouth of any of the respondents to challenge the findings to the effect that "unreasonable classification between women officers whose husbands belong to All India Services and those whose husbands belong to other categories of the Central Services" stand on different footing. They are estopped, therefore, by their own conduct now to urge that the rules provide otherwise and that the policy of inter-cadre transfers envisages such transfers only when two All India Service Officers belonging to two different Cadres marry and that the case of Smt.Nina Singh is not covered by it. After the finding given in O.A No.360/93 had become final, it was incumbent upon the respondents Central Government to abide by it and issue necessary directions in favour of the applicant. The respondents cannot take the plea that in the operative portion of the order, there was only a direction to decide and consider the representation made by the applicant. The respondents were to decide not only the representation of the applicant but were also under duty to abide by the findings given by the Tribunal in the

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earlier O.A disposed of on 6.5.94. The necessary corollary should have been that after the findings have become final and the Tribunal has allowed the applicant to give her option for change of Cadre from the Joint Cadre of Manipur-Tripura to the State of Rajasthan or other States indicated by her therein, the respondents should have taken a decision in accordance with Rule 5(2) of the IPS (Cadre) Rules, 1954, which has not been done by them in the present case.

16. Consequently, this O.A is allowed and the impugned orders as at Annx.A1 dated 25.10.94; Annx.A2 dated 11.8.95 and Annx.A5 dated *are held unsustainable in the eyes of law and* 22.7.91 are hereby quashed and set aside. Respondents Nos.1 & 2 are hereby directed to issue necessary orders about the change of Cadre of the applicant from the Joint Cadre of Manipur-Tripura to the State of Rajasthan or in the alternative to the States for which the applicant has exercised her option as envisaged under Rule 5(2) of the IPS(Cadre) Rules, 1954.

17. The O.A stands disposed of accordingly with no order as to costs.


(N.P.Nawani)

Administrative Member.


(Ratan Prakash)

Judicial Member.