

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 31.3.2015

OA No. 291/00198/2015

Ms. Kavita Bhati, Counsel for the applicant.

Heard the Ld. Counsel for applicant.

The OA is filed seeking to quash and set aside the impugned order dated 18.3.2015 and 18.7.2014 praying for deferment of her posting till completion of academic session i.e. till 31st May, 2015. The applicant was transferred from HQ, CE South Western Command to HQ, CE Central Command vide order dated 18.7.2014 (Ann.A/2) along with 5 other candidates who were also transferred vide the same order to different places. The grievance of the applicant is that the Ann.A/2 is against the policy guidelines and also only daughter of the applicant is studying in 10th Standard whose academic career is going to suffer a lot due to mid-academic transfer order.

2. The applicant vide representation Ann.A/4 dated 28.7.2014 requested for deferment of posting till 31st May, 2015. The respondent No.2 informed the applicant vide Ann.A/6 communication dated 13.8.2014 that the applicant's representation is for extension of tenure which has been considered by the competent authority and not approved. Respondent No.2 also directed the applicant to move as per posting ordered vide Ann.A/2. The applicant again represented the matter which was again rejected vide Ann.A/8 order dated 21.10.2014. The respondent No.2 vide the said order Ann.A/8 informed the applicant that posting order stands and she should move out on posting as ordered.

3. The applicant moved an OA No.291/00600/2014 before this Tribunal. The Tribunal vide order dated 5.11.2014 disposed of the OA, respondent No.1 was directed to consider and decide the representation dated 31.10.2014 of the applicant according to provisions of law by a reasoned and speaking order.

4. Pursuance of the order of the Tribunal dated 5.11.2014 again the matter was considered vide speaking order dated 18.3.2015 in which all the contentions were considered as mentioned in the representation. It is stated in the Ann./1 that as per the policy, Cadre Management of MES Civilian Officers Guidelines, the officers whose children are in class XII are considered for extension of tenure beyond normal tenure, therefore, her request for extension of tenure does not fall within these guidelines. The respondent No.2 reproduced the Para 11(e)(iii) which is read as follows:-

"The officers with children in class XII Std. will generally not be posted out till completion of class XII examination. However, extension on this account shall be limited to one year beyond normal tenure, irrespective of the class in which the younger child may be studying. The officer will have to intimate, two years in advance, to the Pers. Directorate of E-in-C's Br. in this regard duly authenticated by Principal of the School, through CE Comd. Such officers, if willing, will be considered for tenure posting subject to availability of vacancies to give them house retention benefit."

5. The applicant was also informed by the respondent No.2 that as per Para 11 of the policy, postings are issued twice in a year and she had already completed the tenure in station as per the duration of tenure stipulated in Appx.-G to the Policy. The authority also informed the applicant that she and her husband MES-186188 Sh.Kamlesh Kumar Meena,EE(SG) have been posted to same station, therefore, managing personal affairs is not considered difficult in the present situation. Both of them are posted to

same station since their marriage. The request to cancel the transfer order has been rejected and the respondent No.2 informed the applicant that she has, therefore, been posted as per the posting guidelines and there has been no violation.

6. The applicant has filed the present OA challenging the aforesaid order which is marked as Ann.A/1. This Tribunal vide Ann.A/11 referred above directed the authorities to consider and decide the representation according to the law by a reasoned and speaking order. The Tribunal directed the respondent No.1 that the applicant has only requested for deferment of her posting till the academic session is over and nor for the cancellation of her transfer order. The Tribunal also directed that till the disposal of the representation by respondent No.1 the transfer order of the applicant dated 18.7.2014 shall not be implemented if it has already not been given effect to.

7. Pursuance to the order passed by the Tribunal dated 5.11.2014, the authorities considered the case again and passed the order on 18.3.2015 by that time of passing of the order, the examination of the only daughter is about to be over. Now, the examination of the daughter of the applicant is over and the new academic session is to take place, the applicant's grievance is almost redressed by the passage of time, her request for extension of time till 31.5.2015 cannot be countenanced. The authority has not accepted her request for extension for joining till 31.5.2015, for valid reasons. The order of transfer dated 18.7.2014 of the applicant was along with the transfer of 5 other officers, her request for extension of time was rejected for valid reasons. The authority has rejected the request for keeping in abeyance the transfer order till 31.5.2015. The authority has considered the request. By this time the examination of the daughter is over and the

(4)

applicant would have to obey the transfer order at least at this point of time. I am not inclined to interfere with Ann.A/1 order and Ann.A/2 order of the OA. There is no merit for consideration, accordingly the OA is dismissed.

(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER

Adm/