

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.102 of 1997

And

Original Application No.103 of 1997

Date of decision: This the 19th day of September 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

Dr (Mrs) M. Joymati Devi (in O.A.No.102/97)

Dr Thokchom Shyamcharan Singh (in O.A.No.103/97)

Working as Medical Officer,
Central Health Services, 24 Assam Rifles, Mantripukhuri,
Manipur, C/o 99 A.P.O.Applicants

By Advocates Mr B.D. Konwar and Mrs J. Konwar.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Health & Family Welfare, New Delhi.
2. The Under Secretary to the Government of India, Ministry of Health & Family Welfare, Department of Health, New Delhi.
3. The Director General of Assam Rifles, Ministry of Home Affairs, Assam Rifles, Shillong.
4. The Commandant, 24 Assam Rifles, Mantripukhuri, Manipur, C/o 99 A.P.O.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....

O R D E R

BARUAH. J. (V.C.)

Both the above applications are similar inasmuch as they arise out of a common order. Therefore, I propose to dispose of both the applications by a common order.

2. Facts for the purpose of disposal of the applications

[Signature]

are:

The applicant in O.A.No.102/97 after obtaining her M.B.B.S. degree from Regional Medical College, Imphal was appointed in the year 1992 on the recommendations of the UPSC. She was appointed Medical Officer in Central Health Services. Her first posting was at Shillong under the Director General, Assam Rifles on 19.11.1992. Thereafter she was transferred to 24 Assam Rifles, Imphal, and since then she has been working as such till date.

The applicant in O.A.No.103/97 after obtaining his M.B.B.S. degree was initially appointed Medical Officer(Ad hoc) by the Director General of Health Services in Safdarjung Hospital, New Delhi in the year 1989. Thereafter, by Annexure-A order dated 18.6.1990 the applicant was offered appointment to the post of Medical Officer in Central Health Service on ad hoc basis. Accordingly, the applicant after being released by Safdarjung Hospital, New Delhi, joined Assam Rifles, Shillong, under the Director General. Subsequently, thereafter the services of the applicant had been regularised by Annexure-H order dated 27.9.1994. Since joining Assam Rifles the applicant has been serving in the North Eastern Region including Sikkim for more than 7 years. At present the applicant is working at 24 Assam Rifles, Imphal.

3. As per the appointment letter the applicants are required to serve in Defence or any service connected thereto for a period of not less than four years. Immediately after the appointment the applicant in O.A.No.102/97 was first appointed under Assam Rifles and she was posted at Shillong. Thereafter, she was transferred to Imphal, Manipur. The applicant in O.A. No.103/97 after joining Assam Rifles was first posted at 17 Bn Assam Rifles, Sikkim. Thereafter the applicant was transferred to Imphal, Manipur. According to the applicants Assam Rifles

is.....

is an organisation connected with the Defence. The applicant in O.A.No.102/97 has been serving in this Department for about five years and the applicant in O.A.No.103/97 has been serving for more than seven years. By the Presidential order No.A.22012/33/96.CHS-II dated 30th July 1996 the applicants have been transferred from Assam Rifles to CGHS, Delhi. The applicants were willing to join in the said service in view of the fact that they had already served for almost five and seven years respectively in the Assam Rifles. However, the Assam Rifles Department has not released them ignoring the Presidential order dated 30.7.1996. Hence the present application.

4. Heard Mr B.D. Konwar, learned counsel for the applicants, assisted by Mrs J. Konwar. Also heard Mr S. Ali, learned Sr. C.G.S.C. In due course, after appearance, the respondents have filed written statements. The only ground taken in the written statements is that as there is a dearth of doctors it has not been possible for the Assam Rifles to release the applicants. The learned counsel for the applicant has submitted that in terms of the appointment letter the applicants have served for more than five and seven years respectively in the Assam Rifles which is connected with the Defence service. Mr Ali confirms this aspect of the matter. If that is so, in my view, non-availability of doctors cannot stand in the way of the applicants to carry out the Presidential order of transfer and I also feel that the Assam Rifles should try to find out suitable persons in their place and release them.

5. Considering all the above I dispose of both the applications with a direction to the respondents to release the applicants as early as possible, at any rate within a period of one month from today.

6. The applications are accordingly disposed of. Considering the facts and circumstances of the case, I make no order as to costs.