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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.196/94.

Date of Admission: This the 15th Day of December 1994.

Justice Shri M.G.Chaudhari, Vice-Chairman

Shri G.L.Sanglyine, Member (Administrative)

Mrs. B.Das (Bora)

Wife of Sri Rajen Borah

Resident of Beltola, Near Army Hospital,

Basistha Road,

P.O. & P.S.-Beltola,

Guwahati, Assam.

... .. Applicant.

By Advocate <sup>MS</sup> Mr.K.K.Mahanta with

Ms.B.Chaudhary and D.C.Borah.

-Versus-

Union of India & Ors.

By Advocate Mr.B.K.Sharma

Mr.J.L.Sarkar for respondent No.5.

ORDER

CHAUDHARI J(V.C.)

Mr.K.K.Mahanta for the applicant.

Mr.J.L.Sarkar for respondent No.5.

✓ Heard learned counsel for the applicant. Although we see considerable amount of hardship suffered by the applicant at Lumding we are unable to <sup>admit</sup> ~~allow~~ the petition as no relief as prayed is capable of being granted to her for the following reasons:

- ✓ 1. The applicant has no legal rights to ask for transfer.
2. It is true that since 1983 she has been wanting transfer/ <sup>but</sup> the situation has materially changed after her marriage as her husband is working at Lumding so that both of them can now stay together.
3. Just like the applicant belongs to SC community, the

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respondent No.5 belongs to ST community. The husband of the respondent No.5 resides at Guwahati. She has therefore, been posted at Guwahati consistently with the policy to place husband and wife together. The respondents have effected the transfer in their discretion. It cannot be said to be arbitrary.

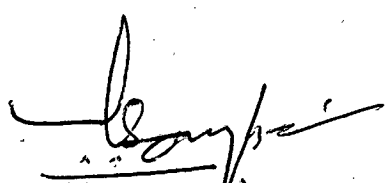
The policy circular pointed out to us to the effect that as far as practicable SC/ST candidates should be posted at Home District or at adjoining district will make no difference because in 1982 the applicant had accepted the posting at Luming although that policy was in existence. Both, applicant and respondent No.5 are not very differently placed hence the fact that applicant is senior and has been wanting transfer from 1983 cannot confer upon her any right to be preferred although if she were transferred we would not have interfered with it. The decision in the matter however rests with the authorities concerned. We cannot compel them to take a different view in the absence of malafidies and the ground given by them in the written statement does not appear to be unreasonable or arbitrary.

It is true that the applicant has stated that she needs medical attention owing to some illness she has developed. Although that is a factor which could be taken into account by the authorities concerned that by itself would not enable us to direct her transfer to Guwahati in place of respondent No.5 as respondent No.5 cannot be said to have been transferred in an illegal manner. Consequently the application is summarily rejected. However the respondents 2 to 4 are hereby specifically directed that whenever

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the next vacancy will arise at Guwahati the applicant shall be considered for transfer on priority basis looking to her hardships and ill health. It is left open to the respondents to consider otherwise accommodating the applicant at Guwahati on transfer without disturbing the respondent No.5 if that is possible. The above directions shall form part of this order. Interim order vacated.

Copy of the order be furnished to the counsel for the parties.

  
(G.L. SANGLYINE)  
MEMBER (ADMINISTRATIVE)

  
(M.G. CHAUDHARI)  
VICE-CHAIRMAN

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