

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2513/2016

New Delhi this the 16th day of November, 2016.

HON'BLE MR. JUSTICE M.S.SULLAR, MEMBER (J)
HON'BLE MR. P.K.BASU, MEMBER (A)

Ms.Sushma Rani
Personal Assistant,
I.B., Ministry of Home Affairs,
35, S.P.Marg,
New Delhi-110021

... Applicant

(By Advocate : Mr.Bharat Bhushan)

VERSUS

1. Union of India
Through the Secretary,
Govt. of India,
Ministry of Home Affairs,
New Delhi.
2. The Joint Director (E)
I.B., Ministry of Home Affairs,
35, S.P.Marg,
New Delhi-110021

... Respondents

(By Advocate: Mr.Ravi Kant Jain)

O R D E R (ORAL)

Hon'ble Mr. P.K.Basu, Member (A):

The applicant is a divorced lady and single parent of her son of 21 years of age who is pursuing studies at Delhi. She is also looking after her old parents aged about 81/79 years.

2. The applicant was appointed as Stenographer on 26.04.1999 at Intelligence Bureau Head Quarters, New Delhi. At her own request, she had been transferred to Jaipur, as her husband was posted there. Thereafter, to look after her parents she again sought transfer to Delhi, which was acceded to. She is aggrieved by the impugned order

dated 11.07.2016 by which she has been transferred from IB Headquarters, New Delhi and posted to SIB Nagpur with immediate effect; order dated 14.07.2016 by which the respondents have relieved her and memorandum dated 21.07.2016 vide which her representation dated 18.07.2016 for cancellation of her transfer order to Nagpur was not acceded to; and order dated 21.07.2016 relieving her to join at Nagpur. The grounds for seeking quashing of the above orders are the following:-

“(i) The respondents do not have any transfer policy for placement of such staff as a result there is a big element of arbitrariness in the transfer.

(ii). Her transfer is out of unexplained prejudices against the applicant.

3. The respondents have in their reply cited several instances of violence by the applicant against several colleagues. In fact, seeing her behaviour pattern, the respondents directed her to appear before Chief Medical Officer, Dr.R.M.L.Hospital, New Delhi for her medical examination, which she did not attend. Rather she misbehaved with the person who was engaged for referring her to the Medical Board. This was followed by another severe incident of violence against another colleague. She was immediately taken to Dr. R.M.L.Hospital, New Delhi for medical examination to find out the ailment she was suffering from as she was in an uncontrollable state of mind. It is alleged that at the time of her examination, she even physically assaulted the doctor.

4. Keeping in view the serious acts of misconduct, the applicant was placed under suspension w.e.f. 13.07.2007 and subsequently issued charge memo dated 11.09.2007.

5. On 18.07.2007, the applicant also made a complaint to SHO. PS Chankyapuri, New Delhi alleging assault by Shri Chav Singh, ACIO-II/G, and later filed a Criminal complaint no. 13708/1u/s 156 (3) read with section 200 of Cr. P.C. in the court of ACMM, New Delhi against several of her colleagues. The SHO, Chanakya Puri submitted a preliminary enquiry report based on which her application u/s 156 (3) Cr. PC was dismissed vide order dated 3.11.2007, but on the basis of complaint and statement of one other witness, cognizance was taken and summons issued on 26.3.2009 to Chav Singh and others for the commission of offence u/s 323 and 354 of IPC. There was, however, a contradiction in the statement made by her in her application u/s 156(3) Cr PC with the statement made by her u/s 200 Cr PC before the Court.

6. In the departmental enquiry, the charges were held as proved by the Inquiry Officer, except two charges and one charge was held to be partially proved. She was awarded major penalty of 'reduction in pay by one stage for a period of two years with cumulative effect' vide order dated 6.03.2009. The appeal filed by her was also rejected. OA No.4169/2010 filed by the applicant in this Tribunal in this regard was dismissed.

7. It is stated by the learned counsel for the respondents that the applicant has been transferred purely on requirement basis.

8. It is further stated that as regard her medical problems (diabetes, hypertension), Nagpur also has CGHS facilities and sufficient number of Government and private recognized hospitals are also available there.

9. The respondents have also stated in their reply that transfers are made on operational and functional commitments of the organization and lady officials of the department, including single ones, are also posted in various units.

10. Heard the learned counsel for the parties and perused the pleadings.

11. We called for the original prescriptions of Dr.RML Hospital, which were produced by the applicant. It is seen that the applicant is suffering from depression and anxiety, and perhaps the outburst and violence where as a result of this. Certainly this lady officer is burdened with several problems. First, she has hypertension, thyroid malfunction, uncontrolled diabetes mellitus, ketonuria, which itself puts a person in lot of stress. On top of that, unfortunately, she is divorced and has to face the world alone. It is not an easy task for a lady in our society. She has only a boy who is pursuing his studies in Delhi. Added to all this, she has to look after her aged parents. It can be reasonably presumed that her acute depression and anxiety has been as a result of the stress and uncertainty that she is facing in life. Her superior should have been able to understand that and not taken this matter as a case of an indisciplined employee. By sending her to Nagpur, while IB Headquarters, New Delhi may be able to improve the atmosphere there, the condition of the applicant would further deteriorate medically. Every employer is expected to look after the welfare of the employees. Here is an employee who not only has several serious physical medical problems but also serious mental disorder which is not going to get solved by transferring her out of Delhi; rather it will only get aggravated.

12. In view of the above, we stay the orders dated 11.07.2016, 14.07.2016 and 21.07.2016 directing the respondents to retain her at Delhi. They may, however, if they so feel, post her at any other office of the IB at Delhi instead of the Headquarters.

13. The learned counsel for the respondents prayed that since relief is being granted to the applicant, the applicant should also show a good gesture and withdraw the criminal case filed against her colleagues. Learned counsel for the applicant fairly conceded that he would persuade the applicant to withdraw the criminal case.

14. OA is allowed. There shall be no order as to costs.

(P.K.Basu)
Member (A)

(Justice M.S. Sullar)
Member (J)

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