

**Central Administrative Tribunal
Principal Bench**

OA No. 3880/2018

This the 20th day of November, 2018

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)***

Neeta Bhushan
Through her Power of Attorney of holder
Shri Anurag Bhushan,
r/o B 22, MEA Complex Chanakyapuri,
New Delhi

Also at:
910, S Michigan Avenue # 1901
Chicago, Illinois USA.

... Applicant

(By Advocate: Sh. Sanjay Ghose with Sh. Ankit Garg,
Sh. Chetan Sharma and Sh. Siddharth Sharma)

Versus

Union of India
Through its Secretary,
Ministry of External Affairs,
New Delhi-110011.

... Respondents

(By Advocate: Sh. Rajeev Kumar)

ORDER (ORAL)

By Justice L.Narasimha Reddy, Chairman

The applicant is an officer of the Indian Foreign Service. At present she is working as Consulate General at Chicago. Through an order dated 28.09.2018 she is transferred to the Headquarters of

Ministry of External Affairs, New Delhi. The same is challenged in this OA.

2. The applicant contends that she has been posted in Chicago in January 2017 and even before she completed the normal tenure, she has been transferred. It is also pleaded that her daughter is studying 12th standard in an institution at Chicago by availing the diplomatic privilege, and if she is transferred at this stage it would not be possible either to get an admission in an equivalent course in India or to continue her daughter's study at Chicago in her absence. Other grounds are also pleaded.

3. Respondents filed the counter affidavit opposing the OA. It is stated that no employee, particularly in foreign service, has any right to remain at a particular station for a definite period and much would depend upon the administrative exigency. It is stated that when the applicant requested for child care leave, it was readily granted and there is no basis for filing this OA.

4. Applicant filed reply narrating the circumstances under which child care leave was requested and indicated the difficulties involved in availing that benefit.

5. We heard Sh. Sanjay Ghose, learned counsel for applicant and Sh. Rajeev Kumar, learned counsel for respondents.

6. We are aware of the fact that transfer is an incidence of service of a Government employee and it is particularly so, in Indian Foreign Service. The applicant is holding a very high position of Consulate General at an important place like Chicago. She has been posted there in the month of January 2017. Obviously, being under the impression that the stay would be for some reasonable period, she admitted her child in an institution at that place. It may be true that an officer at that level cannot expect a definite tenure and many a time, the transfer may be warranted to avail the services of senior officers at other places. All the same, the expectation with which the applicant admitted her daughter at Chicago cannot be said to be without any basis, or not well founded.

7. From the tone and tenor of the OA and other pleadings, we find that applicant does not have even a semblance of grievance ever in the context of being shifted to Headquarters at Delhi. Her only concern is the education of her daughter, this being in middle of school session. The transfers in the domestic front are not ordinarily made in the middle of the academic year. The reason is that the education of the children of such employees which is half way through should not be disturbed. In the instant case the problem is more acute. The problem of securing admission in an equivalent course in India is more acute, from the point of view of

(a) equivalence of syllabus and (b) stage of course; vis-a-vis her course of study in Chicago.

8. Neither in the order of transfer nor in the counter affidavit, it is alleged that any development of sensitive nature has taken place warranting the immediate shifting of the applicant. Her plea that her entire record is free from any blemish is not contradicted. We do not intend to interfere with the order of transfer. However, we are of the view that the stay of the applicant at the present station can be permitted till the end of March 2019. The applicant shall be under obligation to report and join at Headquarters, New Delhi on or before that date. However, if the stay of her daughter at Chicago to complete the ongoing 12th class, cannot be continued with any arrangement except by way of presence of applicant herself, it shall be open to the applicant to make representation, which in turn shall be decided on merits. We also make it clear that it shall be open to the respondents to give such instructions and directions to her, as are needed to ensure that the functioning of the office of Consulate at Chicago is not adversely affected in any manner.

9. The OA is accordingly disposed of, directing that the stay of the applicant at the present station shall stand extended upto 31.03.2019. The applicant shall be under obligation to report for duty at Headquarters, New Delhi before 31.03.2019. However, if it is felt that the study of her daughter cannot be completed in the

academic year without her presence, the applicant may make a representation in this behalf well in advance and order in this behalf shall also be passed by the respondents before 31.03.2019.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

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