

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 2739/2018

The 20th day of August, 2018

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)

Ms. Jyotika
Stenographer, Group 'C'
Aged 31 years,
R/o 489, Type-II,
Sector-2, Sadiq Nagar,
New Delhi-110049.

.. Applicant

(By Advocate: Shri Sumit Kumar)

Versus

Aviation Research Centre,
Director General of Security,
Cabinet Secretariat,
Govt. of India,
Through the Director General,
Block-V (East), R.K. Puram,
New Delhi-110066.

.. Respondent

(By Advocate: Shri R.K. Jain)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

Heard both the sides.

2. The applicant, a Stenographer under the respondent – Aviation Research Centre, filed the O.A. questioning the Annexure A-1, Office Order dated 27.02.2018, whereunder she was transferred from ARC HQ to ARC Charbatia (Cuttack).

3. The applicant submits that she has a three years old son and her father-in-law and mother-in-law are aged and are suffering from various ailments. The applicant was on Child Care Leave in October, 2017 and thereafter continued on Maternity Leave since November, 2017, therefore, she could not submit choice of station for transfer, which is usually done during the end of the year. In the meantime, the applicant had to undergo forced miscarriage delivery in November, 2017 and her Maternity Leave converted to Miscarriage Leave. Therefore, she had to report for duty in the month of February, 2018. However, her follow up treatment was continuing in Moolchand Hospital.

4. The respondents issued the impugned Transfer Order and the applicant was asked to join at Charbatia (Cuttack) w.e.f. 16.05.2018. The applicant made a representation with a request to change the place of posting to any other place where CGHS facility and Government accommodation is available or to defer the transfer till the completion of her medical treatment in Moolchand Hospital. However, the respondents vide order dated 27.03.2018 rejected the representation of the applicant and in response to another representation made by the applicant, the respondents deferred the transfer for two months, i.e. till 16.07.2018, vide order dated 17.04.2018. In May, 2018, the applicant was detected with

pregnancy and on check up, it was diagnosed that her pregnancy is high risk pregnancy because of the forced miscarriage on the earlier occasion. In view of this, the applicant made another representation with a request to cancel her transfer. However, the same was rejected by the respondents vide order dated 04.07.2018. Finally, the respondents allowed the applicant to be on Child Care Leave for 81 days, which will expire on 30.09.2018.

5. Learned counsel for the applicant submits that inspite of medical advice and representations of the applicant, the respondents have not considered the request of the applicant and rejected the same without proper application of mind and without any valid reasons.

6. Per contra, the learned counsel for the respondents submits that the transfer of the applicant was not a single transfer and the same was a part of the transfers of number of Stenographers and that the incumbent Stenographer, who was posted in place of the applicant, has already joined and any change in transfer order would disturb the administrative functioning and the same will have cascading effects but after sympathetically considering the applicant's request, the respondents deferred her transfer and permitted her to avail Child Care Leave till 30.09.2018.

7. The learned counsel further submits that the applicant has completed the tenure at the present place, i.e. New Delhi, as per the Transfer Policy and the place to which she is transferred, i.e. Charbatia (Cuttack), is having all medical facilities sufficient for the medical needs of the applicant and she was advised to join at the said place and to apply for more leave, if she requires as per her medical needs and, hence, there is no illegality in the action of the respondents and, accordingly, prays for dismissal of the O.A.

8. The various proceedings, which are on record, do not indicate any proper application of mind on the part of the respondents to the medical advice in respect of the applicant. Though in normal circumstances, this Tribunal is reluctant to interfere with the transfers which were made as per the Transfer Policy and as per the administrative exigencies but in the present case, in view of what is submitted by the applicant and medical record, we are of the view that the request of the applicant deserved to be considered, at least till the expiry of the reasonable period from the date of delivery, which is said to be expected in January, 2019.

9. In the circumstances and in view of the aforesaid reasons, we direct the respondents to defer the impugned transfer of the applicant till the end of April, 2019 or expiry of three months from the date of delivery of the applicant, whichever is earlier. Till then,

the respondents shall permit the applicant to avail any of the leave on her credit, or even on leave on loss of pay, if no other leave is available to her credit, as per the rules.

10. With the above direction, the O.A. is disposed of. No order as to costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

/Jyoti/