

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO. 063/0107/2018 Date of order:- 24.8.2018

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs.P.Gopinath, Member (A).

Anil Musafir son of Shri B.R.Musafir, working as Office Superintendent, JNV Theog, Shimla-171 201.

.....Applicant.

(By Advocate : Mr. Rohit Seth)

Versus

1. Union of India through Secretary, Ministry of Human Resources Development, A-28, Kailash Colony, New Delhi-110 001.
2. The Commissioner, Navodaya Vidyalaya Samiti, Head quarter, B-15, Institutional Area, Sector 62, Noida, District Gautam Budh Nagar, Uttar Pradesh, 201 309.
3. Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, Bay No.26-27, Sector 31-A, Chandigarh-160030.
4. Bahadur Singh, Office Superintendent, Jawahar Navodaya Vidyalaya Pojewal SBS Nagar, Punjab-144 524.

...Respondents

(By Advocate : Shri Ram Lal Gupta, Advocate .

O R D E R (Oral).

Sanjeev Kaushik, Member (J):

Applicant assails order dated 14.8.2018 (Annexure A-1)

whereby he was transferred from Theog, Shimla to Kullu.

2. Heard Shri Rohit Seth, learned counsel for the applicant. He argues that before issuance of impugned transfer order, the applicant made representations dated 11.7.2018 & 31.7.2018 (

Annexures A-4 & A-10) respectively, which were duly forwarded to the competent authority by his immediate superior vide letters dated 12.7.2018 & 1.8.2018 (Annexures A-5 & A-11), wherein the applicant has stated in terms of clause 4 of the transfer policy dated 2.4.2018, which was circulated vide letter dated 11.4.2018 (Annexure A-6), there is a window available to the competent authority not to transfer an employee who is suffering from ailment. He further submitted that the applicant is getting treatment from IGMC, Shimla, for his renal failure, therefore, his request ought to have been accepted and by not doing so, the respondents have not only violated their own policy, but have also ignored the recommendations made by his superiors based upon his medical condition. Mr. Seth further argues that the applicant will not get proper treatment at Kullu for his serious ailment. Therefore, he submitted that the impugned order of transfer qua him be set aside.

3. Shri Ram Lal Gupta, Advocate, who is in receipt of advance notice appears for the respondents no.1 to 4 and based upon instructions received from Shri M.S.Yadav, Office Superintendent, informs this Court that the respondents have not received any representation from the applicant.

4. Considering the above, we direct the applicant to submit a fresh representation along with earlier representations along with recommendations made by his superiors and also by annexing the medical reports, within seven days from the date of receipt of certified copy of this order. After receipt of the representation, the respondents are directed to consider the same and decide by passing

a speaking order, in accordance with law, within three weeks from the date of receipt of representation. Till the respondents decide the representation of the applicant, operation of the impugned order dated 14.8.2018 qua the applicant shall remain stayed.

5. Disposal of the O.A. in the above terms shall not be construed as expression of an opinion on the merits of the case.

6. Copy **Dasti.**

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P.GOPINATH)
MEMBER (A).**

Dated:- 24.8.2018.

Kks

