

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA/310/01253/2018

Dated Tuesday the 25th day of September, Two Thousand Eighteen

PRESENT

**Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member (J)**

P.Karuthalagan,
Asst.Engineer(P), CCC-II,
CPWD, CHENNAI.

.. Applicant

By Advocate Mr.M.Vaidhiyanathan

Vs.

1. The Special Director General (SR),
Central Public Works Department, 1st Floor,
G Wing, Rajaji Bhavan, Besant Nagar,
Chennai 600 090.

2.The Deputy Director General (HQ-cum-BD),
Southern Region,
Central Public Works Department, 1st Floor,
G Wing, Rajaji Bhavan, Besant Nagar,
Chennai 600 090.

3.The Superintending Engineer,
CCC-II, CPWD, Chennai 600 006.

.. Respondents

By Advocate Mr.M.Kishore Kumar

ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“(i)To set aside the Order bearing No.57(2)/CAT(GENL)/DDG(HQ)/2018/464 dated 09.08.2018 passed by the First Respondent and render justice.”

2. It is submitted that the applicant wished to challenge his transfer from Chennai to Karaikal and he had filed OA 673/2018 in this regard. The OA was disposed of with a direction to the competent authority to respond to the representation of the applicant dated 11.05.2018 for his retention at Chennai. The impugned order dated 09.08.2018 had been passed in pursuance thereof aggrieved by which the applicant is before this Tribunal.

3. Learned counsel for the applicant would submit that the applicant had completed 8 years of service at Chennai which in terms of Annexure A-1 policy decision of the respondents dated 01.02.2018 is the normal tenure for persons posted in Chennai/Hyderabad/Bengaluru. The applicant was seeking extension of service at Chennai on the ground that his spouse was employed in the State Government in the Government of Tamil Nadu. However, the respondents erroneously rejected the

representation stating that the normal tenure for the applicant was six years and he had already enjoyed the benefit of two years extension in Chennai on the very same ground and, therefore, further extension could not be allowed.

4. Attention is also drawn to OM of DOPT F.No.28034/9/2009-Estt.(A) dated 30.09.2009 containing guidelines for posting of husband and wife at the same station, the relevant portions of which are extracted as under:

“4(vii) Where one spouse is employed under the Central Govt. and the other spouse is employed under the state Govt.:— The spouse employed under the Central Govt. may apply to the competent authority and the competent authority may post the said officer to the station or if there is no post in that station to the State where the other spouse is posted.

(viii) The husband & wife, if working in the same Department and if the required level of post is available, should invariably be posted together in order to enable them to lead a normal family life and look after the welfare of their children especially till the children attain 18 years of age. This will not apply on appointment under the central Staffing Scheme. Where only wife is a Govt. servant, the above concessions would be applicable to the Govt. servant.

5. Complaints are sometimes received that even if posts are available in the station of posting of the spouse, the administrative authorities do not accommodate the employees citing administrative reasons. In all such cases, the cadre controlling authority should strive to post the employee at the station of the spouse and in case of inability to do so, specific reasons, therefor, may be communicated to the employee.”

It is submitted that the person who was posted in the applicant's place at Chennai has since been retained at Hyderabad and

accordingly the post vacated by the applicant is still vacant. His representation could have been considered in terms of the aforesaid provisions. Further, no specific reasons have been given not to retain the applicant at Chennai in spite of the availability of the post.

5. Mr.M.Kishore Kumar present in the court submits that he is taking notice on behalf of the respondents.

6. On perusal, it is seen that the impugned order clearly states at various places that the normal tenure at Chennai is six years and not eight years. It appears that before the transfer guidelines issued by circular dated 01.02.2018, the normal tenure for Chennai was 6 years only and we have no reason to suspect that it was eight years even before, when the applicant had completed his six years of tenure in Chennai especially when the applicant has not produced a copy of the previous transfer policy. If the normal tenure was only 6 years, the respondents would appear to be correct in their observation that the applicant had already enjoyed the benefit of two years on the ground that his spouse was employed in Chennai under the State Government. It also appears that the applicant had not drawn attention specifically to the aforesaid provisions in his representation and, therefore, the

respondents could not be faulted for not answering in the impugned order the grievance that the DOPT guidelines in this regard had been overlooked.

7. In the above facts and circumstances of the case, we are of the view that the ends of justice would be met in this case if the applicant is allowed to submit a fresh representation seeking transfer to Chennai in the light of the aforesaid provisions in the OM of DOPT dated 30.09.2009 within one week from the date of receipt of a copy of this order. On receipt of such representation, the respondents shall consider it in accordance with law and in public interest and in the event of a decision not to accept the representation, cite specific reasons for not being able to accommodate the applicant in Chennai despite the alleged availability of post as per Para 5 of the said OM. It is clarified that we have not expressed any views on the merits of the applicant's claim.

8. OA is disposed of with the above direction.

(P.Madhavan)
Member (J)

(R.Ramanujam)
Member(A)

25.09.2018

M.T.