

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00240/2018

Date of Order: This, the 20th day of July 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

Sri Kamal Narayan Thakuria
Upper Division Clerk
J.N.V., Sorbhog, Barpeta
District – Barpeta, Assam, Pin – 781317.

...Applicant

By Advocates: Mr. G. Baishya, Mr. A. Hassan, Ms. B. Bora
Mr. S. Hazarika

-Versus-

1. The Union of India
Through the Secretary, Government of India
Ministry of Human Resource Development
Department of Education, New Delhi – 110001.
2. The Commissioner
Navodaya Vidyalaya Samity
Institutional Area, Sector-62, Noida
Uttar Pradesh – 201307.
3. The Deputy Commissioner
Navodaya Vidyalaya Samity
Regional Office, Temple Road
Barik Point, Lachumiere, Shillong – 793001.
4. The Principal
J.N.V, Sorbhog, Barpeta
District – Barpeta, Assam, Pin – 781317.

...Respondents

By Advocate: None

ORDER (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicant makes a prayer to set aside the proposed transfer list in respect of Upper Division Clerk prepared and published by the respondent authority for Transfer Drive, 2018 and to direct the respondent authorities to transfer the applicant in his choice place of posting in terms of the Transfer Policy of the Samiti.

2. Heard Mr. G. Baishya, learned counsel for the applicant. Perused the pleadings and the documents relied upon.

3. Mr. Baishya submitted that the applicant was initially appointed as Lower Division Clerk in JNV, Nalbari, Assam vide letter dated 31.07.1996 and on his promotion, he joined as UDC in the present Vidyalaya, that is, JNV, Barpeta, on 04.05.2007. Since then, he has been working in the said Vidyalaya. On completion of his normal tenure in the present place of posting, the applicant had applied for request transfer by giving 5 (five) places namely – Goalpara, Bongaigaon, Chirang, Kokrajhar and Baksa under Shillong region under the Transfer Drive, 2018. But the respondent authority without accommodating the applicant in his choice place of posting, has sought to be transferred the applicant from JNV, Barpeta to JNV, South West Garo Hills, Meghalaya, which is not his choice place of posting, by accommodating some other employees who are junior to the applicant in 3 (three) choice places of the applicant i.e. Baksa, Chirang and Bongaigaon without considering the case of the

applicant. The respondent authority has not accommodated any employee in JNV Goalpara and Kokrajhar under the Transfer Drive, 2018. According to learned counsel, the respondent authority, by violating their own transfer guidelines, has sought to transfer the applicant to such a remote place only to accommodate the other employees.

4. According to Mr. Baishya, the respondent authorities have failed to consider the fact that the daughter of the applicant is studying in Class-III under CBSE and at this stage, if the applicant is transferred; it will adversely affect the study of her ward. Moreover, his aged ailing mother is staying in his hometown i.e. Nalbari. If the applicant is transferred to such a distance place, the applicant may not be able to take proper care of his mother.

5. Mr. Baishya further submitted that against the proposed transfer list, the applicant submitted a representation dated 09.07.2018 before the respondent authority by stating all the grievances and requested to cancel his transfer to South West Garo Hills, Meghalaya and also to consider his case for request transfer in the choice place of posting. Said representation was also forwarded to the respondent No. 3 by the Principal, JNV, Barpeta, Assam with a request to consider his case. But the said representation of the applicant is still pending for consideration.

6. Mr. Baishya placed a judgment of this Court on the similar issue, that is, **O.A. No. 040/00308/2016**, where the Division Bench of this Tribunal while entertained the matter, vide order dated 12.08.2016,

disposed of the said **O.A. No. 040/00308/2016** and granted interim relief. As the facts of the instant applicant is identical with the aforesaid **O.A. No. 040/00308/2016**, therefore, learned counsel prays for similar benefit.

7. In view of the above, without going into the merits of the case and for the ends of justice, I direct the respondents to dispose of the pending representation of the applicant dated 09.07.2018 and pass a reasoned and speaking order keeping in mind the Transfer Policy published by the NVS and the fact that her daughter is studying in Class-III.

8. It is needless to mention that the representation shall be disposed of by the respondent authorities within four months from the date of receipt copy of this order and whatever decision is taken thereto shall be communicated to the applicant forthwith. Till then, applicant shall not be disturbed from his present place of posting, that is, JNV, Sorbhog, Barpeta, Assam.

9. Accordingly, O.A. stands disposed of at the admission stage itself. No order as to costs.

(MANJULA DAS)
JUDICIAL MEMBER