

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/21/462/2018

Dated : 24.07.2018

BETWEEN

Smt. B. Sarala Devi,
W/o. Ramavath Sankar,
Aged about 46 years,
Occ: Assistant Drugs Controller (I), Gr. 'A',
Central Drugs Standard Control Organization,
Zonal Office, S.R. Nagar, Hyderabad.
R/o. 17-1-111/B, Flat No.103,
Dreams Apartments,
Santoshnagar,
Hyderabad.

.... Applicant

AND

1. Union of India rep. by
Secretary,
Ministry of Health & Family Welfare Department,
Central Secretariat,
New Delhi – 110 001.
2. The Director,
Central Drugs Standard Control Organization (Head Quarters),
Govt. of India, M/o. Health & Family Welfare,
Directorate General of Health Services,
FDA Bhavan, Kotla Road,
New Delhi – 110 002.
3. The Deputy Drugs Controller (I),
Central Drugs Standard Control Organization,
Zonal Office, S.R. Nagar,
Hyderabad – 500 038.
4. The Deputy Drugs Controller (I),
Central Drugs Standard Control Organization,
South Zone,
Chennai.

.....Respondents

Counsel for the Applicant : Mr. A. Narasimha Rao

Counsel for the Respondents : Mr. K. Venkateswarlu, Addl. CGSC.

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER
THE HON'BLE MR. BV. SUDHAKAR , ADMIN. MEMBER

ORAL ORDER

(Per Hon'ble Mr. Justice R .Kantha Rao, Judicial Member)

Heard Shri A. Narasimha Rao, learned counsel appearing for the Applicant and Shri K. Venkateswarlu, learned Standing Counsel appearing for the Respondents.

2. The Applicant was initially appointed as a Drug Inspector by the Respondents in May 2010, upon her selection through UPSC. She was initially posted at Chandigarh and was transferred to 3rd Respondent's Office at Hyderabad. Subsequently, she was transferred and posted at 2nd Respondent's Office in March, 2014 and worked there for a period of one year. After completion of one year period, she was transferred and posted at the 3rd Respondent's Office in March, 2015.

3. The Applicant was promoted as Assistant Drugs Controller on ad hoc basis on 22.1.2018 and since then till the date of transfer, she has been working at Hyderabad. The Applicant's husband has been working as Depot Superintendent, Government Medical Store Depot, S.R.Nagar, Hyderabad under the M/o. Health & Family Welfare. Thus, both the Applicant and her husband are the officers of Central Government. It is submitted on behalf of the Applicant that she has four children, one among them is studying XI standard at Vijayawada FITJEE College which is 250 kms. away from Hyderabad and the remaining children are studying in a Boarding School at Kushaiguda, Hyderabad. They are studying X, IX & VI standards

respectively.

4. The 3rd Respondent issued Office Order dated 20.2.2018 by which the Applicant was transferred from Hyderabad to Sea Port Chennai. The said order is challenged in the present O.A. on the ground that it is in utter violation of guidelines issued by DOPT vide Office Memo dated 3.4.1986 & 12.6.1997 & O.M. dated 3.9.2009. According to the aforesaid O.Ms relied on by the Applicant, when both spouses are in the Central Government service or working in the same department, if posts are available, they have to be mandatorily be posted at the same station. It is submitted by the Applicant that prior to the transfer order, she submitted a detailed representation dated 12.2.2018 stating that her husband is working at Hyderabad in Ministry of Health & Family Welfare, Govt. of India and also stated about the education of her children and other issues and made a request to post her at Hyderabad Office only, mostly in view of the education of her children. She also made some other representations. The representations submitted by the Applicant were not considered and by order dated 4.5.2018, the Applicant was relieved by 3rd Respondent's Office and was directed to report at Sea Port, Chennai. Thus, the transfer order and also the relieving order which have been referred to hereinabove are challenged in the present O.A.

5. The Respondents filed their reply statement opposing to grant relief prayed for by the Applicant. They contended that all officers having completed three years service at one station will be considered for transfer. Since the Applicant was going to complete the prescribed length of service at Hyderabad and as there was no vacant post of ADC (I) available at CDSCO, Zonal Office, Hyderabad, she was transferred to CDSCO Port Office, Chennai where the post of ADC (I) was available. The Tribunal, upon considering the O.M.

dated 30.9.2009, granted interim order staying the transfer order dated 20.2.2018 and also the relieving order dated 04.05.2018. The Respondents contended in the reply statement that the Tribunal, while passing the interim order, was not aware of the fact that there was no post vacant in the cadre of ADC (I) at Hyderabad. Thus, the version of the Respondents is that as there is no vacant post at Hyderabad in the cadre to which the Applicant was promoted, she was transferred to Chennai.

Contending the above, the Respondents sought to dismiss the O.A.

6. Shri A. Narasimha Rao, learned counsel appearing for the Applicant would submit that there are two vacancies in the cadre of ADC (I) at Hyderabad – one is at Hyderabad Airport and the other one is at Zonal Office, Hyderabad and that the Applicant, after promotion, has been working at the Hyderabad Zonal Office. Thus, according to the learned counsel, there is no substance in the contention of the Respondents that there is no vacancy in the cadre of ADC (I) at Hyderabad. Therefore, according to the learned counsel appearing for the Applicant, the transfer is contrary to the guidelines prescribed in O.M. dated 30.09.2009.

7. On the other hand, Shri K. Venkateswarlu, learned Standing Counsel for the Respondents would contend that the Applicant worked at Hyderabad for three years. Moreover, as there are no vacancies in the promotional post at Hyderabad, she was transferred to Sea Port, Chennai and he seeks to dismiss the O.A.

8. In the first place, it is necessary to go through the relevant portion of the O.M. dated 30.09.2009. Para 2 of the O.M. lays down that in the context of the need to make concerted efforts to increase representation of women in

Central Government jobs, these guidelines have been reviewed to see whether the instructions could be made mandatory. It has been decided that when both spouses are in same Central Service or working in same Department and if posts are available, they may mandatorily be posted at the same station. Para 4(iii) of the Memo clearly stipulates that where the spouse belong to the same Central Service, the cadre controlling authority may post the spouse to the same station. Para 5 of the O.M. dated 30.09.2009 is as follows:

“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.”

9. In the instant case, obviously the Applicant after her promotion on 22.1.2018 has been working as ADC (I) in Zonal Office, Hyderabad. Therefore, we do not find any substance in the contention urged by the Respondents that there is no vacancy in the promotional cadre post of the Applicant. Further, the transfer Proceedings dated 20.2.2018 clearly show that there are two vacancies in the cadre of the Applicant. Therefore, the contention urged by the Respondents that there are no vacancies in the cadre of the Applicant, cannot be accepted. It is not the case of the Respondents that the impugned transfer is on administrative grounds. Therefore, as rightly contended by the Applicant in the present O.A., the transfer is in violation of the O.M. dated 30.09.2009. Therefore, the transfer order dated 20.02.2018 and the relieving order dated 04.05.2018 are hereby set aside.

10. The O.A. is allowed as above. MAs No. 325/2018 & 326/2018 stand

closed. No order as to costs.

(B.V. SUDHAKAR)
ADMIN. MEMBER

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

pv