

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 042/00275/2018

Date of Order: This, the 21<sup>st</sup> day of August 2018

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER**

Mrs. A. Athia, W/o Mr. S. Kapani  
Staff Nurse, Jawahar Navodaya Vidyalaya  
Mao, District – Senapati, Manipur  
Pin – 795106.

**...Applicant**

By Advocates: Mr. M.G. Singh, Mr. S.K. Singha & Mr. N.T. Singh.

-Versus-

1. The Union of India  
Through the Secretary, Human Resource Development  
Department of School Education  
& Literacy Shastri Bhawan, New Delhi – 110048.
2. The Commissioner  
Navodaya Vidyalaya Samity  
Department of School Education & Literacy  
Govt. of India, B-15, Institutional Area  
Sector – 62, Noida, District – Gautam Buddha Nagar  
Uttar Pradesh , Pin – 201309.
3. The Deputy Commissioner  
Navodaya Vidyalaya Samity  
Regional Office, Temple Road  
Barik Point, Lachumiere, Shillong – 793001.
4. The Principal, Jawahar Navodaya Vidyalaya  
Mao, Senapati, Manipur, Pin – 795106.

**...Respondents**

By Advocate: None

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

By this O.A., applicant makes a prayer for setting aside the impugned Final Transfer List (Round 1 & Round 2) – ATD 2018 shown in the official website on 13-08-2018 in respect of the applicant.

2. Mr. M.G. Singh, learned counsel for the applicant submits that applicant is a Staff Nurse working in Jawahar Navodaya Vidyalaya, Mao, Senapati-1, Manipur under Shillong region of Navodaya Vidyalaya Samiti. According to Mr. Singh, the applicant has left only 2 years and 6 months (approx.) for superannuation. She is also suffering from Cancer Cervix with Cervical Polyp with Benign Proximal Positional Vertigo (BPPV) and presently under treatment at District Hospital, Senapati.

3. Mr. Singh further submitted that in the Proposed Transfer List ATD-18, the name of the applicant is shown as being displaced from present place of posting at JNV, Mao, Senapati, Manipur under Shillong Region to JNV, Mirzapur, Uttar Pradesh under Lukhnow Region of NVS. Being aggrieved, the applicant filed a detailed representation dated 11.07.2018 before the respondent No. 3. But without consideration of the

applicant's representation dated 11.07.2018, the impugned Final Transfer List (Round 1 & Round 2) – ATD 2018 shown in the official website on 13.08.2018 whereby the applicant has been sought to be transferred from Senapati, Manipur under Shillong Region to Mirzapur, Uttar Pradesh under Lukhnow Region.

4. Mr. Singh further submitted that applicant is living only with spouse who is also an ex-employee of NVS and has retired from service. He is also totally dependent upon me and there is no one to take care or look after him as all their children are studying outside the State. Since the applicant left only 2 years and 6 months (approx.) for superannuation, it will be very difficult for the applicant to move and make at this ripe age in a totally new and far place.

5. We have heard the learned counsel for the applicant. Perused the pleadings and the documents relied upon. No doubt, the department is the best suited to judge as to the existence of exigencies of such transfer who should be transferred where. Same time, it should not be given by that the power of judicial review could very well be exercised by a court of law if such transfer indicated hardship factor in compliance with such a transfer order. Moreover, it is the policy

of the Govt. of India that in case of an officer due to superannuation, posting to station of choice shall be given due weightage. There is an objective based on consideration of welfare behind such provision in the transfer policy as it would enable a person about to retire after a long and devoted service to make arrangements for settling down thereafter with her family, acquire a house if not already done and to make necessary arrangement for her superannuated life. In **Union of India Vs. Dr. Umesh Kumar Mishra WA No. (SH) 17/12**, Hon'ble Gauhati High Court has held that – “Fairness requires that if a policy has been laid down, the same may be deviated from only if there is any reason to do so. If no reason is forthcoming, the exercise of power of transfer in violation of a laid down policy may be held to be arbitrary.”

6. In the present case, we have noted that, applicant will retire in January 2021. Only about 2 years 6 months left of her service. In **Narayan Choudhury Vs. State of Tripura & Ors. WP(C) No. 239/1999** rendered in **(2000) 1 GLR 519** where the Hon'ble Gauhati High Court of Agartala Bench has held that – “The petitioner is retiring towards the end of 2000 and he has to serve hardly one and half years, no practical purpose will be

served by asking the writ petitioner to proceed to his place of posting at Gomit just for a period of 5/6 months".

The present case is squarely covered with the above case of **Narayan Choudhury Vs. State of Tripura** (supra).

7. By taking into consideration the entire conspectus of the case as well as ratio laid down by the Hon'ble Gauhati High Court mentioned above, we direct the respondent authority to allow the applicant to continue in her present place at JNV, Mao, Senapati, Manipur under Shillong Region of NVS till her date of retirement. Consequently, the impugned Final Transfer List (Round 1 & Round 2) – ATD 2018 shown in the official website on 13.08.2018 in respect of the applicant is hereby quashed and set aside.

8. O.A. stands disposed of accordingly, at the admission stage. No order as to costs.

**(N. NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**