

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 045/00255/2018

Date of Order: This, the 01st day of August 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

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

Sri Rupjyoti Bhuyan
S/o – Sri Umakanta Bhuyan
Upper Divisional Clerk
Jawahar Navodaya Vidyalaya, Kombo
P.O. & P.S. – Aalo
Dist – West Siang (Arunachal Pradesh)
Pin – 791001.

...Applicant

By Advocates: Mr. G. Phukan

-Versus-

1. Union of India through Secretary
Ministry of Human Resources Development
Department of School Education & Literacy
A-28, Kailash Colony, New Delhi – 110048.
2. The Deputy Commissioner
Navodaya Vidyalaya Samiti, Regional Office
Temple Road, Barik Point, Lachumiere
Meghalaya, Shillong – 793001.
3. The Principal, Jawahar Navodaya Vidyalaya
Jawahar Navodaya Vidyalaya, Kombo
P.O. & P.S. – Aalo,
Dist – West Siang, (Arunachal Pradesh)
Pin – 791001.

...Respondents

By Advocate: None

O R D E R (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

Being aggrieved, the applicant herein approached before this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 with the following reliefs:

- “8.(i) To direct the respondents to transfer and post the applicant at JNV, Lakhimpur or any other nearby JNV in Assam without further delay on spouse ground in compliance to the office memorandum No. – 28034/92009-Estt.(A) dated 30/09/2009 of the Department of Personal and Training (DoP&T) as well as in terms of the guidelines on the transfer policy issued by NVS vide Circular No. – F.2-2/2018 (ATD) – NVS(Estt)/17430 dated 02.04.2018.
- (ii) To direct the respondents to transfer and post the applicant to his choice of station as the applicant had already completed the mandatory tenure of 3 (three) years in hard region as per Navodaya Vidyalaya Samiti Notification – F.1-3/2011-NVS(Estt.II)/386 dated 04.04.2012.
- (iii) To direct the respondents to transfer and post the applicant at JNV, Lakhimpur or any other nearby JNV in Assam without further delay on the ground of ill-health of applicant 8 (eight) years old elder daughter who is suffering from Epilepsy (Seizure), being one type of neurological disorder.
- (iv) Any other appropriate Order or Direction to give full and effective relief's to the applicant.”

2. Heard Mr. G. Phukan, learned counsel for the applicant, perused the pleadings and all the documents.

3. It is noted that the instant petition has been filed by the applicant against non consideration of the request transfer to his choice station i.e. to JNV, Chaudhapunia Lakhimpur, Assam wherein the applicant's wife is working as Staff Nurse or at any nearby station on spouse ground as per the Notification dated 04.04.2012 issued by the NVS and the guideline issued vide O.M. dated 30.09.2009 by the Ministry of Personnel, Public Grievances and Pension (Department of Personnel & Training), Govt. of India and the subsequent Circulars and Guidelines issued by the respondents regarding annual transfer drive of the employees in accordance with Notification dated 04.04.2012 and also on Medical ground of the applicant's 8 years old daughter suffering from Epileptic Seizure because of bike accident.

4. It is further noted that on completion of prescribed tenure in hard station, the applicant applied for request transfer and participated in the annual transfer drive w.e.f. 2014, however, his case was not considered. Representations made by the applicant on 07.01.2015, 15.12.2015 and 27.07.2016 are not considered by the respondent authority.

5. The applicant again applied for request transfer as per the annual transfer drive for the year 2017-18 through on line process as per the guideline of the NVS, preferring request transfer to JNV, Goalpara, Assam against the only deemed vacant post as shown in the online portal for the year 2017-18. But inspite of that, his request transfer against deemed vacancy at JNV, Goalpara was not considered by the respondents. Thereafter, in view of transfer guidelines for the year 2018, the applicant again applied for request transfer preferring choice place at (i) JNV, Lakhimpur, (ii) JNV Jorhat and (iii) JNV Papumpare against the deemed vacant post as shown in the on line portal which was not considered by the respondent authority.

6. In view of the above and without going into the merit of the case, we direct the respondent authorities to consider the case of the applicant for choice posting subject to availability of vacancy within a period of three months from the date of receipt copy of this order keeping in mind –

- (1) That the applicant has been working in hard station for more than 11 years;
- (2) That applicant is eligible to get the benefit of spouse posting as per department's Transfer

Policy dated 04.04.2012 as well as DoP&T's O.M. dated 30.09.2009 inasmuch as his wife is a Staff Nurse working at JNV, Chaudhapunia, Lakhimpur (Asam);

- (3) That elder daughter of the applicant is suffering from Epilepsy (Seizure) who met with a bike accident due to which she sustained severe brain injury.

7. With the above directions, the O.A. stands disposed of. No order as to costs.

(N. NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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