

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 351/ 633 of 2018

IN THE MATTER OF:

Mr. V.K. AZIZ, son of Late Ali Ahmed, aged about 59 years, residing at Manarghat, Post Office- Wimberlygunj, South Andaman, Pin- 744206 and working to the post of Head Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

Applicant

-Versus-

1. UNION OF INDIA, service through the Secretary, Ministry of Home Affairs, Government of India, South Block, New Delhi- 110001.
2. THE ANDAMAN & NICOBAR ADMINISTRATION, service through the Chief Secretary, having its office at Secretariat, Port Blair-744101



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3. THE CHIEF SECRETARY, Andaman & Nicobar Administration, Secretariat, Port Blair- 744101;
4. THE SUPERINTENDENT (Prison), District Prison, Prothrapur, Andaman & Nicobar Administration, District South Andaman, Port Blair- 744103.
5. THE INSPECTOR GENERAL (PRISON), Andaman & Nicobar Prison Department; Andaman & Nicobar Administration, Secretariat, Port Blair- 744101
6. THE JAILER, District Prison, Prothrapur, Andaman & Nicobar Administration, District South Andaman, Port Blair- 744103
7. Mr. C. HUSSAIN, Head Warder, District Prison, Prothrapur, Andaman & Nicobar Administration, District South Andaman, Port Blair- 744103

...Respondents

1. DETAILS OF THE APPLICATION:

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No. O.A. 351/00633/2018

Date of order: 11.5.2018

Present: Hon'ble Mr. A.K. Patnaik, Judicial Member

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : None

**ORDER (Oral)****A.K. Patnaik, Judicial Member:**

Mr. P.C. Das, Id. Counsel for the applicant is present.

2. This O.A. has been by the applicant under Section 19 of the Administrative Tribunal Act, 1985 seeking the following relief:-

"a) To quash and/or set aside the impugned order of transfer being No. 414 dated 31<sup>st</sup> October, 2017 issued by the Superintendent (Prison), District Prison, Prothrapur by which your applicant has been transferred from District Jail, Prothrapur (South Andaman, Port Blair) to Sub Jail, Mayabunder (North and Middle Andaman) by violation of their own Transfer Policy circulated by the Andaman & Nicobar Administration dated 30<sup>th</sup> July, 2007 under paragraph 4(vi) wherein it has been clearly stated that two years before retirement, an official should not be transferred. In this particular case, the applicant is almost 59 years of age and just few months are there for his retirement being Annexure A-3 of this original application.

b) To quash and/or set aside the impugned office order No. 518 dated 6<sup>th</sup> December, 2017 which has been issued by the Superintendent (Prison), District Prison, Prothrapur by not considering the representations submitted by your applicants in the light of the Transfer Policy dated 30<sup>th</sup> July, 2007 being Annexure A-6 of this original application.

c) To quash and/or set aside the impugned office order No. 260 dated 25<sup>th</sup> April, 2018 which has been issued by the Superintendent (Prison), District Prison, Prothrapur by not considering the Transfer Policy dated 30<sup>th</sup> July, 2007 under paragraph 4(vi) as framed by the Andaman & Nicobar Administration and enforced the applicant to join duty in the transfer place who is retiring just after few months being Annexure A-11 of this original application.

d) To declare that the aforesaid impugned order of transfer dated 31.10.2017 and the relieve order dated 06.12.2017 is otherwise bad in law and illegal in view of the latest decision rendered by this Hon'ble Tribunal vide the judgment and order dated 31.1.2018 in O.A. No. 351/108/2018 in the case of Smt. Bernadeth Ekka vs. Union of India & ors. Whereby this Hon'ble Tribunal discussed the same Transfer Policy dated 30<sup>th</sup> July, 2017 and directed the respondent authority concerned to allow the intending applicant to continue in her service at the present place of posting till her retirement after quashing and/or setting aside the transfer order by violation of their own transfer policy dated 30<sup>th</sup> July, 2007. The present applicant is



entitled the same benefit of the judgment as rendered by the Hon'ble Tribunal in the aforesaid matter.

e) To pass an appropriate order directing upon the respondent authority to continue the applicant in his present place of posting till his retirement to the post of Head Warder in District Prison, Prothrapur."

3. Mr. P.C. Das, Ld. Counsel for the applicant submitted that vide order bearing No. 414 dated 31.10.2017 issued by the Superintendent (Prison), District Prison, Prothrapur the applicant has been transferred from District Jail, Prothrapur (South Andaman, Port Blair) to Sub Jail, Mayabunder (North and Middle Andaman) in violation of the transfer policy of the respondents circulated by the Andaman & Nicobar Administration dated 30.7.2007. In paragraph 4(vi) of the said circular it has clearly been mentioned that two years before retirement an official should not be transferred. In this case the applicant is almost 59 years of age and is about to retire. He has also been relieved from his duties vide order dated 6.12.2017. He preferred several representations at Annexure A-6 dated 30.7.2007, which is still pending consideration. Vide order dated 25.4.2018 the applicant has been directed to join the transferred place immediately. He is aggrieved for non-consideration of his representations dated 2.11.2017, 11.12.2017 and 27.12.2017 by the respondent authorities.

4. Mr. Das brought to my notice the order passed by this Bench in O.A. No. 351/108/2018 in the case of **Smt. Bernadeth Ekka v. Union of India & ors.** dated 31.1.2018 in favour of the applicant, whose case is quite similar to this case and submitted that the applicant's grievance would be more or less satisfied if the representations submitted from time to time are considered and disposed of by respondent Nos. 3, 4 and 5 keeping in mind the order passed by this Bench in the case of **Smt. Bernadeth Ekka (supra)** and communicate the result thereof by a well-reasoned order within a period of 4 weeks from the date of receipt of this order.

5. I also make it clear that as the copy of the paper book is also being sent to the said authorities, therefore, I do not want to repeat the views already taken in

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the aforesaid order in the paragraphs 4, 5 and 6 but hope and trust that while considering the case in hand i.e. the case of the present applicant, the aforesaid order passed by this Bench be also kept in mind.

6. With the aforesaid observation and direction, this O.A. stands disposed of.

7. As prayed for by Mr. Das, Ld. Counsel for the applicant a copy of this order along with paper book be transmitted to the respondent Nos. 3, 4 and 5 by speed post, for which Mr. Das undertakes to deposit necessary cost in the Registry by the next week.

(A.K. Patnaik)  
Judicial Member

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