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O.A. 350/12/2017

THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 350/00712 of 2017

IN THE MATTER OF:

PRABIR SEN, aged about 56 years,
son of Late Dr. Jatindra Mohan Sen,
residing at 297 (East) Netaji Pally, 12,
Satyen Bose Road, Post Office-
Rabindra Sarani, Siliguri, Pin-734006
and working to the post of Assistant
Engineer (Civil) under Executive
Engineer (Civil) PCD-I, Kolkata and
posted at PCSD, Siliguri.

...APPLICANT

-VERSUS-

1. **UNION OF INDIA**, service through the
Secretary, Government of India, Ministry
of Communication & Information
Technology, Department of Posts, 20,
Sanchar Bhawan, Ashoka Road, New
Delhi-110001.
2. **THE CHIEF POST MASTER GENERAL**,
West Bengal Circle, South Bengal
Region, Department of Posts,

*Prabir Sen.**Wd*

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Government of India, Yogayog Bhawan,
Kolkata- 700012.

3. **THE CHIEF ENGINEER (C)**, Department
of Posts, Dak Bhawan, Sansad Marg,
New Delhi-110116;

4. **THE SUPERINTENDING ENGINEER**
(P&A), Department of Posts, Dak
Bhawan, Sansad Marg, New Delhi-
110001.

5. **THE SUPERINTENDING ENGINEER**
(CIVIL) (P&A), Postal Civil Circle,
Department of Posts, 4th Floor, Yogayog
Bhawan, Kolkata- 700012,

... Respondents.

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No.O.A/350/712/2017

Date : 12.05.2017

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

For the applicant : Mr.P.C. Das, counsel

Ms. T. Maity, counsel

For the respondents : Mr.R. Halder, counsel

ORDER(ORAL)**A.K. Patnaik, Judicial Member**

This O.A. has been filed under Section 19 of the Central Administrative Tribunals Act, 1985 challenging the impugned order of transfer being No.4-13/2012-CWP/Vol.IV/313 dated 27.04.2017 (Annexure A/6 to the O.A.) issued by the Superintending Engineer(P&A), Department of Posts, Dak Bhawan, Sansad Marg, New Delhi whereby the applicant has been transferred from PCSD, Siliguri to PCSD, Jorhat(North East Zone).

2. In this O.A. the applicant has prayed for the following reliefs:-

"a) To quash and/or set aside the impugned order of transfer being No.4-13/2012-CWP/Vol.IV/313 dated 27.04.2017 issued by the Superintending Engineer(P&A), Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001 whereby your applicant has been transferred from PCSD, Siliguri to PCSD, Jorhat(North-East Zone) wherein the name of the applicant appeared at Serial No.8 which is utter violation of the office memo dated 6th June, 2014 issued by the DOP&T, New Delhi and also violates the principle of natural justice, equity and fair play as because the applicant has already exercised his option vide his letter dated 18.01.2017 along with all medical documents of his handicapped son submitted by him who is suffering from Duchenne Muscular Dystrophy(DMD) which is not curable and the son of the applicant is totally handicapped because of such disease and he cannot move from one place to another unless by wheelchair being Annexure A-7 of this original application;

b) To pass an appropriate order directing upon the respondent authority to consider the option exercised by the applicant vide his letter dated 18.01.2017 in respect of retaining him in the office of PCSD, Siliguri on the ground of serious illness of his son who is suffering from Duchenne Muscular Dystrophy(DMD) which is not curable and the son of the applicant



is totally handicapped because of such disease and he cannot move from one place to another unless by wheelchair in terms of the office memo dated 6th June, 2014 issued by the DOP&T, New Delhi which has been duly forwarded by the appropriate authority before the Chief Engineer(C), Department of Posts, Dak Bhawan, New Delhi;

c) To pass an appropriate order directing upon the respondent authority to set aside and/or quash the transfer order dated 27.04.2017 and the respondents be directed to give posting of the applicant as per the option exercised by him in terms of the office memo dated 6th June, 2014 issued by the DOP&T, New Delhi;

d) Costs;

e) Any other relief or reliefs as Your Lordships may deem fit and proper."

3. Heard Ld. counsel for the applicant, Mr. P.C., Das along with Ms. T. Maity.

Ld. counsel for the respondents, Mr. R. Halder is also present and heard.

4. Learned counsel for the applicant, Mr. P.C. Das submitted that the applicant's son is suffering from a serious disease called Duchenne Muscular Dystrophy (DMD) and he cannot move from one place to another without a wheelchair, therefore, the applicant would be in great difficulty if he is transferred to Jorhat. He also submitted that the applicant has already served for more than two years as an Assistant Engineer(C) in the North East Zone earlier and thereafter he was posted at Siliguri on 08.06.2011. Mr. Das further submitted that the applicant has made a representation dated 01.05.2017(Annexure A-7 to the O.A.) to the Chief Engineer(C), Ministry of Communication & IT, Department of Posts, Dak Bhawan, New Delhi(Respondent No.3) ventilating his grievances therein, but he has not received any reply. He also submitted that the applicant would be satisfied if a direction is given to the respondent No.2 or 3 to consider and dispose of the representation of the applicant by passing a well reasoned order keeping in mind the DOP&T circular dated 06.06.2014(Annexure A/9 to the O.A.) within a specific time frame.

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5. Right to know the result of the representation that too at the earliest opportunity is a part of compliance of principles of natural justice. The employer is also duty bound to look to the grievance of the employee and respond to him in a suitable manner, without any delay

6. It is apt for us to place reliance on the decision of the Hon'ble Supreme Court of India in the case of **S.S.Rathore-Vrs-State of Madhya Pradesh, AIR1990 SC Page 10 / 1990 SCC (L&S) Page 50** (para 17) in which it has been held as under:

"17.Redressal of grievances in the hands of the departmental authorities take an unduly long time. That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be deprecated and authorities on whom power is vested to dispose of the appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible. Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation."

7. Considering the aforesaid facts and circumstances, I do not think that it would be prejudicial to either of the sides if a direction is issued to the respondents to consider and decide the representation of the applicant as per rules and regulations governing the field. Accordingly the Chief Post Master General, West Bengal Circle, South Bengal Region, Department of Posts, Kolkata i.e. the Respondent No.2 or the Chief Engineer(C), Department of Posts, Dak Bhawan, Sansad Marg, New Delhi i.e. the Respondent No.3 is directed to consider and dispose of the representation of the applicant, if lying pending for consideration, by passing a well reasoned order as per rules and intimate the result to the applicant within a period of three months from the date of receipt of a certified copy of this order. Till such time, the status quo as on date regarding continuance of the applicant, be maintained. If the representation of the

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applicant has already been disposed of in the meantime, the result may be communicated to the applicant forthwith. If the applicant is found entitled to the relief claimed, he may be granted the same within a further period of two months from the date of taking decision in the matter.

8. It is made clear that I have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

9. As prayed by Mr. Das, a copy of this order along with the paper book may be transmitted to the Respondent No.2 and 3 by speed post by the Registry for which Mr. Das undertakes to deposit the cost within one week.

10. With the above observations the O.A. is disposed of. No order as to cost.

(A.K. Patnaik)
Judicial Member

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