



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 351/000 & 50

of 2017

IN THE MATTER OF:

**SMT. BERNADETH EKKA**, aged about 59 years,  
wife of Shri Egnesh Ekka, residing at Bambooflat,  
South Andaman-744104 and working to the post  
of Lab. Assistant in the G.B. Pant Hospital at Port  
Blair under Health Department, Andaman &  
Nicobar Administration.

...APPLICANT

-VERSUS-

1. **UNION OF INDIA**, service through the  
Secretary, Ministry of Health & Family Welfare,  
Government of India, 'A' Wing, Nirman  
Bhawan, New Delhi- 110011.
2. **THE CHIEF SECRETARY**, Andaman &  
Nicobar Administration, Port Blair-744101.
3. **THE DIRECTOR OF HEALTH SERVICES**,  
Andaman & Nicobar Islands, Andaman &  
Nicobar Administration, Port Blair- 744101.

4. THE SECRETARY (PERSONNEL), office of  
Directorate of Health Services, Andaman &  
Nicobar Administration, Port Blair- 744101.

5. THE ASSISTANT DIRECTOR  
(ADMINISTRATION), office of Directorate of  
Health Services, Andaman & Nicobar  
Administration, Port Blair- 744101.

6. Smt. Hajira Biki, Lab Assistant / Lab Technician  
Working in the Office of PHE, Radhakrishnan, Hake  
at South Andaman ... Respondents.

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Working in the Office of PHE, Radhakrishnan, Hake, St.  
at South Andaman ... Respondents.  
Pin-744115

1. DETAILS OF THE APPLICATION:

*As per leave granted by the  
Medical Member Mr. A.K. Patnayak &  
the name of the PHE Respondent added as  
respondent no. 6 in the list*

*As per leave granted by  
the Medical Member Mr. A.K. Patnayak &  
Smt. Ms. Jaya Desai  
the name of the PHE Respondent  
added as Respondent no. 6  
in the open card.*

16/06/17

*ide*

**No. O.A. 351/00850/2017****Date of order: 30.6.2017****Present : Hon'ble Mr. A.K. Patnaik, Judicial Member**

For the Applicant : Mr. P.C. Das, Counsel  
Ms. T. Maity, Counsel

For the Respondents : Mr. S.K. Ghosh, Counsel

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

Heard Mr. P.C. Das along with Ms. T. Maity, Ld. Counsel appearing for the applicant and Mr. S.K. Ghosh, Ld. Counsel for the respondents.

2. This OA has been filed by Smt. Bernadeth Ekka, working as Lab. Assistant in the G.B. Pant Hospital at Port Blair challenging the impugned transfer order No. 2093 dated 28.3.2017 issued by the Assistant Director (Administration), A&N Administration, Directorate of Health Services by which she has been transferred from CHC, Bambooflat to PHC, Radhanagar in utter violaton of the Transfer Policy introduced by the A&N Administration dated 30.7.2017, the impugned modified transfer order No. 2527 dated 21.4.2017 issued by the Assistant Director (Administration), A&N Administration, Directorate of Health Services by which she has been transferred from G.B. Pant Hospital, Port Blair to PHC, Radhanagar and also non-consideration of her representations dated 29.3.2017 and 27.4.2017 for cancelling the transfer order. This O.A. has been filed praying for the following reliefs:

"a) Restraining the respondents from giving any effect and/or further effect to the impugned transfer order No. 2093 dated 28th March, 2017 along with impugned modified Transfer Order No. 2527 dated 21<sup>st</sup> April, 2017 issued by the Assistant Director (Administration), Andaman & Nicobar Administration, Directorate of Health Services by which your applicant has been transferred from G.B. Pant Hospital, Port Blair to PHC, Radhanagar being Annexure A-4 and A-6 in any manner whatsoever till the disposal of this original application;

b) To stay of operation of the impugned transfer order No. 2093



*dated 28<sup>th</sup> March, 2017 along with impugned modified Transfer Order No. 2527 dated 21<sup>st</sup> April, 2017 issued by the Assistant Director (Administration) Andaman & Nicobar Administration, Directorate of Health Services by which your applicant has been transferred from G.B. Pant Hospital, Port Blair to PHC, Radhanagar being Annexure A-4 and A-6 till the disposal of this original application.*

c) Till the disposal of this original application the status quo in respect of present place of posting as Lab Assistant in the G.B. Pant Hospital at Port Blair be maintained."

3. The facts in a nut shell as per Mr. P.C. Das, Ld. Counsel for the applicant are that the applicant was initially appointed on adhoc basis to the post of Ward Attendant and thereafter she got permanent appointment against the sanctioned post vide Office Order No. 1795 dated 21.4.1994. At present she is working in the post of Lab. Assistant in the G.B. Pant Hospital at Port Blair after completing 32 years of service and after serving at various stations in her service life at North & Middle Andaman & South Group of Islands. She is due to retire from service w.e.f. July, 2018. She claims that the Directorate of Health Service, Andaman & Nicobar Administration have transferred her in violation of Transfer Policy dated 30.7.2017 wherein it has been stated that the official having less than 2 years of service left would as far as possible be allowed a posting of her choice and should not be transferred from that post within that period unless there are compelling administrative exigencies. She preferred a representation on 29.3.2017 before the Directorate of Health Services for cancellation of her transfer order after which a modified transfer order has been issued transferring her from G.B. Pant Hospital, Port Blair to PHC, Radhanagar. Subsequently she made a representation on 27.4.2017 which is still pending consideration.

4. Mr. Ghosh, Ld. Counsel for the official respondents submitted that in the meantime the applicant has already been relieved.

*AO*

5. As I am not entering into the merits of the case, I think it appropriate to direct the respondent No. 2, that if any such representation have been preferred on 27.4.2017 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order keeping in mind the circular dated 30.7.2017 (Annexure A-3) within a period of two months from the date of receipt of a copy of this order under communication to the applicant and if after such consideration, the applicants' grievance is found to be genuine, then expeditious steps may be taken within a further period of three months from the date of such consideration to extend those to the applicant. However, if in the meantime, the representation stated to have been made on 27.4.2017 have already been disposed of then the result be communicated to the applicant within a period of two weeks from the date of receipt of a copy of this order.

6. Therefore, I make it clear that status quo as on date in so far as the applicant's continuance in the said post will be maintained till the said representation dated 27.4.2017 is considered and disposed of.

7. As prayed for by Mr. Das, Ld. Counsel a copy of this order along with paper book be transmitted to the respondent No. 2 by speed post for which Mr. Das undertakes to deposit necessary cost in the Registry by the next week.

8. A free copy of this order be handed over to Mr. S.K. Ghosh, Ld. Counsel for the respondents.

9. With the aforesaid observation and direction, the O.A. is disposed of.

  
(A.K. Patnaik)  
Judicial Member