

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/01049/2016

Date of Order: 13.07.2016.

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Sunil Baran Laha
Vs.
Posts

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : Mr. BP Mahtna, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:-

Heard both.

2. It appears that a representation preferred by the applicant seeking respite from transfer ordered on 17.02.2016 was rejected on 03.05.2016 as the applicant failed to submit copies of the Medical Certificate in support of his contention, as put forth in the representation, that his daughter is suffering from cerebral palsy with mental and physical disorder and she needs continuous support from the parents and doctors.

3. Learned counsel for respondents submitted that the applicant was released long back as the transfer order was issued in the month of February, 2016.

4. During the course of hearing learned counsel for applicant relied upon an OM dated 15.02.1991 which reads as under:

"Subject: Posting of Government employees who have mentally retarded children.

The undersigned is directed to say that there has been a demand that an employee parent of a mentally retarded child should be given posting at a place of his/her choice. This demand has been made on the plea

that facilities of medical aid and education of each children are not available everywhere. Also looking after such children does require special care and patience and is expensive. Hence some concessions from the Government at least in matters of posting at a place of choice is called for.

2. The matter has been examined. Considering that the facilities for medical help and education of mentally retarded children may not be available at all stations, a choice in the place of posting is likely to be of some help to the parent in taking care of such a child. While administratively it may not be possible in all cases to ensure posting of such an employee at a place of his/her choice, Ministries/Departments are requested to take a sympathetic view on the merits of each case and accommodate such requests for posting to the extent possible."

Learned counsel for applicant further invited our attention to the DOPT

circular dated 18.02.2000, circulating in the following :

"Copy of OM No.AD 14017/41/90-Estt (RR) (VO.II) dt. 5.1.93 from Ministry of Personnel, public Grievances, (Department of Personnel and Training)

The undersigned is directed to refer to this Department's OM of number dated the 15th February, 1991 on the above subject and to say that representations have been received from a number of Government employees who have mentally retarded children that their postings from one place to another outside the State adversely affects the education of their mentally retarded child due to change of language and environment. It has been suggested that such a Government employee should be kept at the place of his choice purely on the consideration of his ward with mental handicap and even if he/she is to be transferred, efforts should be made to accommodate him/her in the same state so that the change of language does not adversely affect the education of the child.

The matter has been examined, considering that the facilities for medical care and education of mentally retarded children may not be available at all stations such requests from the parent of a mentally retarded child may as far as possible be considered sympathetically. Where, however, this may not be possible, efforts may be made to accommodate such a Government servant in the same state to the extent possible. The same approach may be adopted in the case of Government servants having physically handicapped children who require special medical treatment due to chronic ailments or disabilities."

5. Having perused the orders we are of the opinion that the aforesaid provisions would require the matter to be considered afresh by the respondents' authorities, sympathetically.

6. Accordingly we dispose of this OA with a direction upon the applicant to prefer a fresh representation along with supporting documents and medical certificates within a period of 7 days from this date. If submitted, the representation shall be considered by the respondent no. 4 or any other competent authority with a reasoned and speaking order to be issued within a period of one month from the date of receipt of a copy of such representation. Till such time the applicant may be on leave or have the liberty to join the place of transfer.

7. It is made clear that we have not gone into the merits of this matter and therefore all points are kept open for consideration by the respondent authorities.

8. The OA accordingly stands disposed of. No costs.

(Jaya Das Gupta)
Member (A)

(Bidisha Banerjee)
Member (J)

pd