

LIBRARY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

KOLKATA BENCH, KOLKATA

O.A. No.351/00 514

of 2018

P. HUSSAIN, son of P. Mohammad,
aged about 43 years, residing at Calicut
Village, District South Andaman, Port
Blair, Pin-744105 and working as Driver
in the G.B. Pant Hospital at Port Blair
under the Director of Health Services,
A&N Administration, Port Blair, Pin-
744101.

... APPLICANT

VERSUS

1. UNION OF INDIA, service through
the Secretary, Ministry of Health &
Family Welfare, Government of India,
Nirman Bhawan, New Delhi-110001.

2. THE LIEUTENANT GOVERNOR
(ADMINISTRATION), Andaman &
Nicobar Islands, Raj Niwas, Port Blair,
Pin-744101.

3. THE CHIEF SECRETARY,
Andaman & Nicobar Administration,
Secretariat, Port Blair, Pin-744101.

W.L.

RECEIVED
X

4. THE PRINCIPAL SECRETARY

(HEALTH), Andaman & Nicobar
Administration, Port Blair, Pin-744101.

5. THE DIRECTOR OF HEALTH

SERVICES, Andaman & Nicobar
Administration, Port Blair, Pin-744101.

6. THE ASSISTANT DIRECTOR OF

HEALTH, Andaman & Nicobar
Administration, Port Blair, Pin-744101.

7. THE ASSISTANT DIRECTOR

(ADMINISTRATION), Andaman &
Nicobar Administration, Directorate of
Health Services, Port Blair, Pin-744101.

8. Dr. S.P. BURMA, Medical

Superintendent of G.B. Pant Hospital,
under the A&N Administration, Port
Blair, Pin-744101.

... RESPONDENTS

W.D.

No. O.A. 350/00514/2018

Date of order: 16.4.2018

Present: Hon'ble Mr. A.K. Pattnaik, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

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

For the Respondents : None

O R D E R (Oral)

A.K. Pattnaik, Judicial Member:

Heard Mr. P.C. Das, Ld. Counsel for the applicant.

2. This OA has been filed under Section 19 of the Administrative Tribunal Act, 1985 praying for the following reliefs:

"a) To quash and/or set aside the impugned Order of Transfer being Office Order No. 1308 and 1306 dated 10th April, 2018 (being Annexure A-9) issued by the Assistant Director (Administration), illegally and arbitrarily by the recommendation of one of the Members i.e. Dr. S.P. Burma, respondent No. 8 of this Original Application who has no power to act as a Member of the Establishment Board for Recommendation of Transfer in view of the Order passed by the Hon'ble High Court as well as this Hon'ble Tribunal in another matter.

b) To declare that the Impugned Order of Transfer being Order No. 1308 and 1306 dated 10th April, 2018 is otherwise arbitrary and illegal on the ground of no authority to act as a Member in the Establishment Board as a Director in Charge by the respondent No. 8 in view of the Order passed by the Hon'ble High Court, by the Hon'ble Supreme Court as well as this Hon'ble Tribunal.

c) To consider the case of the applicant from the angle in respect of abuse and misuse of the power by the respondent No. 8 illegally acted as a Director In Charge in the Health Department of Andaman & Nicobar Administration in respect of recommendation of Transfer;

d) Costs;

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

3. The facts in a nut shell as per Mr. Das, Ld. Counsel for the applicant are that the Andaman & Nicobar administration issued an office order dated 11.11.2017 constituting a Commission comprising of Commissioner cum Secretary (Health) as Chairman, Director of Health Services (Member) and



Assistant Secretary (Health) as a Member of the Establishment Board for recommendation of transfer and post of the employees of Health Department of A&N Administration. Thereafter the respondent No. 8 acting as a Director in the said Establishment Board signed the order of recommendation of transfer against the employees of A&N Administration, Health Department against which a Writ Petition was filed before the Hon'ble High Court at Calcutta being WPCT No. 24 of 2016 and vide order dated February 18, 2016 the Hon'ble High Court observed that Dr. S.P. Burma cannot be appointed as a Director of Health Services on current duty charge or additional charge. A Special Leave to Appeal affirmed the order of the Hon'ble High Court. Final seniority list of the applicant was published on 1.5.2016. As per the applicant the respondent No. 8 is illegally holding the post of Director-in-Charge. This Tribunal passed an interim order on 28.3.2018. The impugned transfer order was issued on 10.4.2018. The applicant made a representation on 11.4.2018 (Annexure "A-10" to the O.A.), which is still pending consideration.

6. Mr. Das, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 4 to dispose of the representation dated 11.4.2018 within a specific time frame.

7. Therefore, we dispose of this O.A. by directing the respondent No. 4 that if any such representation as claimed by the applicant has been preferred on 11.4.2018 and the same is still pending consideration, then the same may be considered and disposed of in terms of orders passed by this Tribunal as well as Hon'ble High Court and Hon'ble Supreme Court within a period of 8 weeks from the date of receipt of this order.

8. Though we have not entered into the merits of the case, still then we hope and trust that after such consideration if the applicant's grievance is found to be genuine then expeditious steps may be taken by the concerned respondent No. 4



within a further period of 6 weeks from the date of such consideration to extend the benefits to the applicant. However, if in the meantime the said representation stated to have been preferred on 11.4.2018 has already been disposed of then the result thereof be communicated to the applicant within a period of 4 weeks from the date of receipt of a copy of this order.

9. Till the said representation stated to have been preferred is considered and disposed of status quo in so far as continuance of the applicant in the present place of posting be maintained.

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

11. As prayed for by Mr. Das, Ld. Counsel a copy of this order along with paper book be transmitted to the respondent No. 4 by speed post for which Mr. Das undertakes to deposit necessary cost in the Registry by the next week.



(Dr. Nandita Chatterjee)
Administrative Member



(A.K. Pattnaik)
Judicial Member

SP