

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 351/00077/2016

Date of order : 5.8.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

NARAYAN DAS

VS

HEALTH & FAMILY WELFARE (A&N)

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

For the respondents : Mr.S.K.Ghosh, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. The applicant a Pharmacist in the Health Department, A&N Administration is aggrieved due to a transfer order dated 6.7.16 whereby and whereunder he has been transferred from G.B.Pant Hospital to PHC Havelock. He has alleged that the transfer order has been issued in violation of circular dated 12.1.16.

3. The circular dated 12.1.16 is extracted verbatim hereinbelow for clarity :

"It has been observed in the past few months that due care was not paid during transfer and posting of the staffs under the Health Department viz. the transfer postings were inconsistent, probably due to non-updation of posting profile being maintained/updated which puts this department in a very embarrassing position., Hence, in order to streamline the process of transfer posting and with a view of updating of data bank of all Officers/Officials of this department a format has been prepared and the same is annexed with the circular.

All Medical Superintendents/Medical Officer I/C of respective Health Institutions are hereby required to circulate the same among all Officers/Officials working under their jurisdiction. The filled in format submitted by individual shall be forwarded to the Directorate by 10th February 2016 through the respective heads of offices duly verified and counter signed by each head of the office and forward all such format after due verification from their service books wherever applicable. The posting profiles so complied shall be uploaded in the website of our department for information of all concerned and the government servant shall have to move to the zones where they have not completed their tenure. Therefore, preference of postings may accordingly be planned by one and al, all

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possible efforts shall be made to accommodate as per their order of preferences to the maximum extent but the public interest shall prevail. No application shall be entertained after due date. Hence, each Officers/Officials may ensure forwarding of their application within the stipulated date."

4. Ld. Counsel for the applicant argued that in view of the said circular dated 12.1.16 it was incumbent upon the authorities to take all possible efforts to accommodate the applicant as per choice exercised, to the maximum extent. The applicant who has served at several places including Diglipur, Mayabunder, Manglutan, Teresha, Nan Cowry, Billyground etc. had given a choice for G.B.Pant Hospital vide the proforma filled in 8.7.16. Before the said proforma could be filled in the present order was issued. Ld. Counsel therefore seeks a stay of the transfer.

5. The prayer has been vehemently opposed by the ld. Counsel for the respondents Mr.S.K.Ghosh stating that the applicant has already been released on 3.8.16 and since he has exercised a choice for only one place i.e. G.B.Pant Hospital it was not be possible for the respondents to accommodate him.

6. Ld. Counsel for the applicant at this juncture submitted that the transfer is in mid-academic session and would hamper the education of the children of the applicant.

7. I have heard the ld. Counsels for the parties and perused the materials on record.

8. Since the applicant is already released there is no question of grant of stay of the order. However, in view of the fact that it is a mid-academic session transfer and a prayer has already been preferred on 9.8.16 to the Directorate of Health Services, I dispose of the OA with a direction upon the Director i.e. respondent No.5 to consider the representation and dispose it of within a period of one month with an appropriate reasoned and speaking order. Since the applicant is already released he shall have the liberty either to join the transferred place of posting or to be on leave.

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9. It is made clear that I have not gone into the merits of the case and all points are kept open for consideration by the respondents.

10. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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