

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 043/00262/2018

Date of Order: This, the 07th day of August 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Smt. Achoibam Rita Devi
Staff Nurse, J.N.V. Mawsynram
East Khasi Hills, Meghalaya
Pin – 793113.

...Applicant

By Advocates: Mr. G. Baishya, Mr. A. Hassan, Ms. B. Bora and
Mr. S. Hazarika.

-Versus-

1. The Union of India
Through the Secretary, Government of India
Ministry of Human Resource Development
Department of Education, New Delhi – 110001.
2. The Commissioner
Navodaya Vidyalaya Samity
Institutional Area, Sector – 62, Noida
Uttar Pradesh – 201307.
3. The Deputy Commissioner
Navodaya Vidyalaya Samity
Regional Office, Temple Road
Barik Point, Lachumiere, Shillong – 793001.
4. The Principal, J.N.V, Mawsynram
East Khasi Hills, Meghalaya, Pin – 793113.

...Respondents

By Advocate: None

O R D E R (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicant makes a prayer for a direction upon the respondents to consider her case for choice posting at JNV, Karimganj, Assam in the 2nd Round of Transfer under Transfer Drive, 2018.

2. Mr. G. Baishya, learned counsel appearing on behalf of the applicant submits that in pursuance of Annual Transfer Drive, 2017, the applicant offered her request to transfer in the choice place of posting at Karimganj, Assam. Her request was considered by the respondent authority by proposing to transfer her at Karimganj, Assam vide order dated 12.02.2018. However, that was cancelled by the respondent authorities due to unavailability of vacancy at Karimganj, Assam. In the Annual Transfer Drive, 2018, although request transfer of the applicant was considered but that was also withdrawn. According to Mr. Baishya, the applicant is eagerly waiting that her case will be considered in the 2nd Round of transfer.

3. Mr. Baishya further submitted that suddenly the respondent authorities vide order dated 27.07.2018 published a Proposed Transfer List (ATD-2018) proposing to transfer another

incumbent namely Ranjana Sukla Baidya at Karimganj, Assam where the applicant has already sought for. According to Mr. Baishya, cancellation of earlier proposed transfer is bad in law inasmuch as the request has been made by the applicant herself. However, without considering her case, other incumbent has been proposed to be posted at Karimganj, Assam.

4. We have heard the learned counsel for the applicant, perused the pleadings and the material placed on record. Learned counsel for the applicant has drawn our attention to the Transfer List (Round 01) of Staff Nurse under ATD 2017 dated 12.02.2018 as appears at Annexure-A2 where the name of the applicant appeared against Sl. No. 7 and the respondents proposed to transfer her from East Khasi Hills-II- Meghalaya, Shillong to Karimganj, Assam. However, suddenly, vide order dated 07.05.2018, the transfer of the applicant against Annual Transfer Drive 2017 has been cancelled. Thereafter, again the Novodaya Vidyalaya Samiti that is, respondent authority prepared proposed transfer list on 04.07.2018 wherein also name of the applicant figured at Sl. No. 7 by transferring her from East Khasi Hills, Shillong to Karimganj, Assam. Same thing has been happened again by withdrawing

the proposed transfer list (ATD 2018) Round 01 dated 04.07.2018 vide order dated 27.07.2018. Hence the grievance of the applicant continued for long and the applicant has been waiting for her transfer.

5. It is noted that the name of the applicant does not figured in the proposed Transfer List (ATD 2018) dated 27.07.2018. Hence the grievance arose that although on two occasions, her case was considered and proposed to transfer to Karimganj, Assam from East Khasi Hills - II, Meghalaya but suddenly in place of the applicant, other incumbent has been sought to be posted at Karimganj, Assam for which the applicant is aggrieved.

6. Clause VI against Sl. No. 7 of Transfer Guideline dated 04.04.2012 issued by the Navodaya Vidyalaya Samiti stipulates that —

“ 7.(VI) On completion of mandatory tenure at NER/hard & difficult stations, the employee will be given posting of his choice as under:-

a) Choice Jawahar Navodaya Vidyalaya against available vacancy.

b) Choice State/region against available vacancies.”

7. In the instant case, the applicant has already completed 9 years in the present place at J.N.V., East Khasi Hills, Meghalaya. Accordingly, she offered her choice posting by giving her choice place at Karimganj, Assam.

8. From the papers and records, it appears that everything has been done smoothly till 27.07.2018. The reasons has not been assigned why the case of the applicant was not considered for inclusion her name for choice transfer from East Khasi Hills, Meghalaya to Karimganj, Assam. In view of the Transfer Guideline as narrated in the foregoing paragraph, applicant's case ought to have been considered by giving posting at Karimganj, Assam inasmuch as from the very time, one post of Staff Nurse was lying vacant where the name of the applicant considered on two occasions.

9. In view of the above, we feel that the case of the applicant should be considered as per her request within a period of one month from the date of receipt copy of this order. Ordered accordingly. It is made clear that till final decision, one post of Staff Nurse at Karimganj, Assam shall not be filled up by other persons else than the applicant.

10. O.A. stands disposed of accordingly, at the admission stage. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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