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**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00417/2017

Tuesday, this the 12th day of March, 2019

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER**

Dr.V.Ramesh
Principal Scientist (Soil Science)
Indian Council of Agricultural Research
Central Tuber Crops Research Institute
Thiruvananthapuram, residing at No.12,
Kaniyalan New Street, Vadassery
Nagercoil, Tamil Nadu – 629 001 ... Applicant

(by Advocate: Mr.Sunil Jacob Jose)

versus

1. The Indian Council of Agricultural Research, (ICAR)
Ministry of Agriculture & Farmers Welfare
Government of India, Krishi Bhavan
New Delhi – 110 001
Represented by its Secretary
2. The Director, Indian Council of Agricultural Research
Central Tuber Crops Research Institute
(ICAR-CTCRI)
Sreekariyam, Thiruvananthapuram – 695 017 ... Respondents

(By Advocate – Mr.P.Santhosh Kumar)

This application having been heard on 7th March 2019, the Tribunal on 12.3.2019 delivered the following :

O R D E R

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Original Application No.180/00417/2017 is filed Dr.V.Ramesh, Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvananthapuram against the order dated 20.5.2017 transferring him from CTCRI Thiruvananthapuram to Indian Institute of Water Management, Bhubaneswar. The reliefs sought in the Original Application are as follows:

“1. Call for the entire records leading to the issuance of Annexure A6.

2. To set aside A6 in as much as the same relates to the applicant

3. To declare that the applicant is eligible to continue to be posted as Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvananthapuram, in the light of the facts brought out in A4 & A5

4. To direct the respondents to allow the applicant to continue as Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvananthapuram in the light of A9.

5. Any further relief or orders as this Tribunal may deem fit and proper to meet the ends of justice.

6. Award the cost of these proceedings.”

2. Applicant is presently working as Principal Scientist (Soil Science) under the respondents. He has been posted at Thiruvananthapuram since October, 2006. Being a native of Nagercoil in Tamil Nadu, his mother tongue is Tamil. It is submitted in the Original Application that the

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applicant's daughter who was born in the year 2001 is afflicted by subnormal mental growth and has speech impediments. The child is required to undergo speech and language intervention in her mother tongue for which Tamil environment is necessary for improving her communication. As per the certificate issued by Sri.Ramachandra Medical College and Research Institute at Chennai dated 3.5.2005 (Annexure A-1), "the child's psychological evaluation revealed mild mental sub-normality; she has been diagnosed to have "Delayed Speech and Language with Mild Mental Sub-normality" for which she has undergone speech and language intervention. It is essential that she continues to undergo speech and language intervention; It is suggested that she has to undergo therapeutic intervention in her mother-tongue- Tamil environment which is conducive for her progress in communication." It was with due consideration of the above fact that the applicant was allowed a transfer from Hyderabad to Thiruvananthapuram as per Annexure A-2 order dated 27.9.2006. Thus, the earlier transfer was on extreme compassionate ground.

3. As per communication dated 8.11.2016, the first respondent had put the applicant on notice that he was at present accommodated against a non-sanctioned/non-existent post. He was informed that a committee had been formed by the President of ICAR to examine all the distortions in posting of Scientists vis-a-vis sanctioned/non-sanctioned posts and appropriate steps would follow on the basis of the evaluation undertaken by the committee. He was also reminded that the preferences given by the Scientists do not bestow any special right on them to continue at a particular institution of his

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choice. He had responded to this communication explaining the compelling situation that needs his presence at the present station. He had also detailed the contribution he is making there and also brought to the attention of the respondents, the O.M issued by the Ministry of Personnel, Public Grievances & Pensions, Government of India dated 15.2.1991 (Annexure A-9) directing that an employed parent of a mentally retarded child should be given posting at a place of his/her choice.

4. The impugned order at Annexure A-6 transferring him to Bhubaneswar has caused him irreparable loss and injury in view of the peculiar situation he is facing. He has filed a representation before respondent no.1 as per Annexure A-7 on 22.5.2017. What was made to understand was that he was likely to be relieved from the office of respondent no.2. The applicant has also attached a copy of the disability certificate issued by the Senior Resident, Department of Psychiatry, KGMCH, Asarpallam certifying that the applicant's daughter suffers from Moderate Mental Retardation amounting to 60%. The Original Application was heard on 31.5.2017 and an interim order was issued to the effect not to relieve the applicant from his present station.

5. A reply statement has been filed on behalf of respondent no.2. It is submitted that ICAR is an organisation with institutions spread all over the country and CTCRI Thiruvananthapuram is one of that based at Trivandrum and fulfilling important tasks entrusted to ICAR. Scientists in ICAR are expected to serve anywhere in the country when called upon by the

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employer organisation and in keeping with the training and expertise of serving Scientists, the organisation has a policy for optimum utilisation of human resources. The Council has been very considerate in their approach towards its employees and the case of Dr.V.Ramesh is an example. He was transferred from Hyderabad to CTCRI Thiruvananthapuram on the ground of personal difficulties associated with his child. He has now remained at Trivandrum since 2006 onwards. However, it is not in the interest of Organisation that an employee should be allowed to work indefinitely at one Station and is required to move in line with the operational requirement of the Council. The degree of accommodation exhibited in the case can be seen from the fact that the applicant was allowed to work in a non-sanctioned post in order to alleviate his personal problems. The respondents are ready to consider further accommodation when the next cadre review takes place. However, until then, it is not possible to retain the applicant at Thiruvananthapuram.

6. In a rejoinder filed, applicant goes to some length to argue that there is a strong case for revising the cadre strength at Thiruvananthapuram, CTCRI and a proposal had been made for creation of 3 Soil Scientists. In the event that this is granted, the applicant could be accommodated easily there, as at present there is only two Soil Scientists are working at CTCRI Thiruvananthapuram

7. In the additional reply statement to the rejoinder filed by respondent no.2, it is further affirmed that the applicant has been accommodated in a

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non-sanctioned post and it is not possible to retain him any longer and his case was carefully re-considered by the Council but was not agreed to.

8. Shri.Sunil Jacob Jose was heard on behalf of the applicant and Mr.P.Santhosh Kumar, learned Standing Counsel on behalf of the respondents.

9. During the hearing, a specific query was addressed to the learned Standing Counsel for the respondents whether there was a proposal to create more posts at Thiruvananthapuram CTCRI and whether the Council was likely to approve the same. In an affidavit filed by the respondents, a copy of the Memorandum dated 10.7.2018 has been attached wherein it is stated that there is no vacancy available in the States of Tamil Nadu and Kerala for accommodating the applicant. However, it is further stated that “after completion of on-going review of scientific cadre strength of ICAR, his transfer could be effected to any of the aforesaid Institutes, if vacant post under his discipline is sanctioned there.” Further, it is stated in the affidavit that the Horticulture Division has also informed that no post of Scientist in the discipline of Soil Science has been sanctioned and discipline wise cadre review is yet to be finalized.

10. The applicant had been transferred from Hyderabad to Thiruvananthapuram on a sympathetic consideration due to the fact that a daughter born to him in 2001 has been detected with subnormal mental growth. He had sought a transfer to Thiruvananthapuram which is adjacent

to his native place Nagercoil on the ground that a Tamil environment was necessary for his child to improve her speech. The applicant has remained at this station for the last nearly 13 years, two years on account of the interim order issued by this Tribunal. He is a part of an All India organisation and as a Principal Scientist, the employer Organisation is well within its rights to seek utilisation of his services at another Station. It is seen that his daughter born in 2001 has now achieved majority in age and clearly it is not justified that her father should work only from his home station. The Original Application is dismissed vacating the interim order granted.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

Annexure A-1 - Photocopy of the certificate dated 3.5.2005 issued Sri.Ramachandra Medical College and Research Institute, Chennai

Annexure A-2 - True copy of the Office order dated 27.9.2006 of the 1st respondent

Annexure A-3 - Photocopy of the DO No.7(14)/2016-Per.I dated 8.11.2016 of the 1st respondent

Annexure A-4 - Photocopy of the explanation dated 22.11.2016 submitted by the applicant to the 1st respondent

Annexure A-5 - Photocopy of the request dated 9.5.2017 submitted before the 1st respondent

Annexure A-6 - Photocopy of the Office order F.No.7(14)/2016-Per.I dated 20.5.2017 of the 1st respondent

Annexure A-7 - Photocopy of the request dated 22.5.2017 of the applicant filed before the 1st respondent

Annexure A-8 - Photocopy of the certificate dated 22.8.2016

Annexure A-9 - Photocopy of office Memorandum dated 15.2.1991

Annexure R2(A) - True copy of the Letter F.No.7(14)/2016-Per.I, dated 30.5.2017

Annexure R2(b) - True copy of the Memo No.35(100)/1999-Per.I(pt.) dated 10.7.2018 issued by ICAR to the applicant
