

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/00633/2018**

**Monday, this the 1<sup>st</sup> day of April, 2019**

**CORAM:**

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**  
**Hon'ble Mr. Ashish Kalia, Judicial Member**

P.S. Veena, W/o. A.R. Premchand, aged 34 years,  
 Accountant, Office of the Pay & Accounts Officer (Agriculture),  
 Fine Arts Avenue, Cochin – 682 016. .... **Applicant**

**(By Advocate : Mr. C.S.G. Nair)**

**V e r s u s**

1. Registrar General & Census Commissioner of India,  
 2/A, Man Singh Road, New Delhi- 110 011.
2. Joint Director, Directorate of Census Operations,  
 Posnett Bhavan, Tilak Road, Hyderabad – 500 001.
3. Chief Controller of Accounts, Principal Accounts Office,  
 Ministry of Agriculture, 16/A, Akbar Road, Hutment Annex,  
 New Delhi – 110 011.
4. Pay & Accounts Officer (Agriculture), Fine Arts Avenue,  
 Cochin – 682 016.
5. Union of India, rep. By its Secretary, Ministry of Home Affairs,  
 Sardar Patel Bhavan, Parliament Street,  
 New Delhi – 110 001. .... **Respondents**

**(By Advocate : Mr. P.G. Jayan, ACGSC)**

This application having been heard on 26.03.2019 the Tribunal on  
 01.04.2019 delivered the following:

**ORDER**

**Hon'ble Mr. Ashish Kalia, Judicial Member –**

The relief claimed by the applicant are as under:

“(i) To direct the 1<sup>st</sup> respondent to retain the applicant at the 4<sup>th</sup> respondent's office till she is transferred to the Census Department's office at Thiruvananthapuram.

(ii) To direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to transfer the applicant to Thiruvananthapuram on the usual terms and conditions of inter regional transfer within a time frame.

(iii) Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.

(iv) Grant cost of this OA.”

2. The brief facts of the case are that the applicant started her service with Directorate of Census as Compiler on 11.7.2009. She has been deputed in the Pay & Accounts Office, Cochin in order to accommodate her at Cochin where her husband is also working at RTO, Kakkanad, Cochin. Vide order dated 20.7.2016 the deputation of the applicant was curtailed on bifurcation of Andhra Pradesh & Telengana for the census work. Applicant has requested for accommodation by citing DOPT OM dt. 30.9.2009 wherein it is provided that the husband and wife should be posted as far as possible at the same station. She later filed OA No. 180/595/2016 which was disposed of by this Tribunal directing the respondents to consider her representation keeping in view the above OM. Her representation was not acceded to on the sole ground that Group-C post in DCO, Andhra Pradesh does carry all India transfer liability, therefore, her transfer outside Andhra Pradesh is not acceptable. Feeling aggrieved by this, she had approached this Tribunal for redressal of her grievance.

3. Notices were issued to the respondents and interim relief was granted to her ordering that she should not be relieved till disposal of this OA.

4. The respondents have filed a reply statement wherein it is submitted that the applicant is working in a Group-C post as Compiler which does not have all India transfer liability. So she cannot be transferred to the state of her choice. However, they have extended her deputation for one more year.

5. Heard Shri C.S.G. Nair, learned counsel for the applicant and Shri P.G. Jayan, ACGSC, learned counsel appearing for the respondents. Perused the record.

6. Learned counsel for the applicant Shri C.S.G. Nair has drawn our attention to the order dated 17.9.2018 issued by the respondent indicating that Compilers were transferred to Bihar, Karnataka, Odisha, Uttrakhand and West Bengal. He has also relied upon the judgment of the Hon'ble High Court of Jammu & Kashmir in SWP No. 1839 of 2018 – ***Yogesh Chandra Pathak v. Union of India & Ors.***, dated 15.11.2018. The relevant portion of the said judgment is extracted below:

“06. At the first blush, what requires to be stated is that the action of the respondents being the functionaries of the State, has to be transparent. The State cannot discriminate between similarly circumstanced persons. Ours is a welfare country which aims at the goal where everyone is/has to be, as far as possible, looked after. The case of the petitioner had to be considered on the same parameters and analogy as was evolved in the cases of the similarly situated persons, namely, Shri Pulkit Nawal Gupta and Shri Vishal Tiwari. These two persons, too, were appointed as Lower Division Clerks in the respondent Department and while registering their grievances/hardships while service the Department in DCO, Jammu & Kashmir, the respondents on being approached, transferred the said persons from the State of Jammu & Kashmir to DCO, UP and DCO, Delhi respectively, apparently on the same grounds as agitated by the petitioner in his series of representations.”

The Hon'ble Jammu & Kashmir High Court observed that the State cannot discriminate similarly situated persons. More so the applicant is working as Compiler and there are Compilers who wanted to go to other state from Kerala which can be considered by the respondent for the smooth functioning of the administration. Even otherwise the Government of India vide OM No. 28034/9/2009-Estt.(A), dated 30<sup>th</sup> September, 2009 states that as far as possible the husband and wife should be placed in the same station.

7. Keeping in view the above facts and circumstances of the case, the respondents are directed to consider the case of the applicant for her transfer to Trivandrum in place of some other Compiler who wants to go out of Trivandrum. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Till such time the applicant should be allowed to continue at her present place of posting i.e. Cochin.

8. The Original Application is disposed of with the above directions. No order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

“SA”

**Original Application No. 180/00633/2018**

**APPLICANT'S ANNEXURES**

- Annexure A1** - True copy of the order No. A.32016/1/2005 dt. 17.7.2014 issued by the 2<sup>nd</sup> respondent.
- Annexure A2** - True copy of OM No. 28034/9/2009 Estt.(A) 30.9.2009 the issued by the DoP&T.
- Annexure A3** - True copy of the order In OA No. 595/2016 dt. 19.6.2016.
- Annexure A4** - True copy of memo No. A-32016/1/05-Estt. dt. 23.9.2016 issued by the 2<sup>nd</sup> respondent.
- Annexure A5** - True copy of the order in MA No. 1100/2016 dt.17.10.2016.
- Annexure A6** - True copy of the order No. 13014/16/2016 Ad IV, dt. 22.2.2017 issued by the 1<sup>st</sup> respondent.
- Annexure A7** - True copy of the OM No. 6/8/2009 Estt.(PayII) dt. 17.6.2010 issued by the DOPT.
- Annexure A8** - True copy of the OM No. 2/6/2018 Estt. Pay II dt. 18.5.2018 issued by the DOPT.
- Annexure A9** - True copy of the representation dt. 24.4.2018.
- Annexure A10** - True copy of the forwarding letter No. PAO/Agri&fw/Cochin/Admn./Deputation/ 2018-19 267, dt. 3.5.2018 addressed to the 3<sup>rd</sup> respondent.
- Annexure A11** - True copy of the order No. 12011/15/2009-RC dt. 29.12.2009 issued by the 1st respondent.
- Annexure A12** - True copy of the transfer order dt. 7.1.2010.
- Annexure A13** - True copy of the transfer order dt. 9.4.2010.
- Annexure A14** - True copy of the transfer order dt. 18.6.2014.

**Annexure A15** - True copy of the transfer order dt. 17.9.2018.

**Annexure A16** - True copy of the judgment in SWP No. 1839/2018 dt. 15.11.2018.

**RESPONDENTS' ANNEXURES**

**Annexure R1** - Lr. No. A-16013/40/18-Ad.V, dt. 31.7.2018.

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