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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /350/1490/2017
M.A./350/362/2018

Date of order: 04.01.2019

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Smt. Chunkin Bhutia,
Wife of Shri Thendup Tshering Bhutia,
Aged about 54 years,
Presently posted at SIB, Kalimpong and
Residing at 8th mile, P.O. & P.S. Kalimpong,
Dist. Darjeeling, West Bengal,
Pin – 734 101, West Bengal.

Applicant.

-Versus-

1. Union of India,
Service through the Secretary,
Ministry of Home Affairs,
Government of India,
Intelligence Bureau,
North Block,
New Delhi – 110 011.
2. Director, Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi – 110 011.
3. The AX/E,
1B Headquarters,
North Block,
New Delhi – 110 011.
4. The Joint Director,
1B, Headquarters,
North Block,
New Delhi – 110 011.
5. The Joint Director/E,

Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi 110 011.

6. The Joint Director,
SIB, Govt. of India,
9/1, Gariahat Road,
Kolkata – 700019.

.....Respondents.

For the applicant : Mr. J.R. Das, counsel

For the respondents : Mr. R. Halder, counsel

ORDER

Bidisha Banerjee, Judicial Member

In the O.A. the applicant had assailed an order dated 24.04.2017 whereby and whereunder the applicant was informed that she would stand relieved from SIB, Kalimpong w.e.f. 30.04.2017 with a direction to report to the Joint Director, SIB, Guwahati after availing admissible joining time as per rule. On 24th April, 2017 itself, her transfer order was issued directing her to join at Guwahati and on the same date she was relieved. The applicant could not join the new place of her transfer. Thereafter, on her prayer and as per orders of the higher authorities, her relieving order was modified vide order dated 23.10.2017(Annexure A/6) by granting her different kinds of leave to regularise her period of absence and relieving her w.e.f. 31.10.2017 with a direction to report for duty to the Joint Director, SIB, Guwahati after availing of admissible joining time. Vide order dated 31.10.2017 the relieving order of the applicant dated 23.10.2017 was kept in abeyance till further orders. On 31.10.2017 the applicant preferred the present O.A. and on 14.11.2017 the respondents had assured before this Tribunal that the

applicant would not be disturbed from her the then place of posting for a period of 4 weeks. The matter was directed to be listed on 18.12.2017. In the meantime, upon expiry of 4 weeks' period, on 15.12.2017, she was again directed to join at Guwahati treating her to be relieved from SIB, Kalimpong w.e.f. 01.01.2018. The applicant failed to obtain any interim order of stay of operation of the transfer order in the meantime. On 19.03.2018, this Tribunal in the present O.A. along with M.A.No.350/51/2018 directed that "so far as interim order is concerned, status quo as on date so far as continuance of the applicant in the present place of posting will be maintained until further orders."

2. Ld. counsel for the applicant admits at the bar that he has failed to obtain a stay order prior to relieving of the applicant and, therefore, the status as on the date of such order was "she stood relieved to join the place of transfer". It is further submitted that since the applicant went without salary for several months, she was compelled to join the place of transfer in the month of September.

3. The M.A. has been preferred to seek salary for the period she was deprived of the same for having not joined the post of transfer. Therefore, admittedly as on this date, the applicant has joined the place of transfer and wishes to carry on with the challenge in regard to her transfer order:

The challenge to the transfer order is on the ground that her husband is incapacitated due to an accident, he met several years back which compelled him to resign from Government service and her daughter who is in 12th standard would appear at the higher secondary examination this year, therefore, her

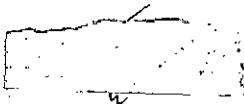
husband can accompany her to the new place once the daughter's examination is over.

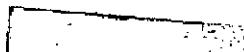
4. Ld. counsel for the respondents assured that in order to attend the daughter at the time of her examination, the authorities will consider her case for granting Child Care Leave till her daughter's examination is over.

5. Ld. counsel for the applicant submits that Child Care Leave, if granted, would satiate her need for the present.

6. In view of the rival contentions and assurance of the Ld. counsel for the respondents, we dispose of this O.A. with consent of the parties, with a direction upon the applicant to seek Child Care Leave till the Higher Secondary Examination of her daughter is over, within 10 days from the date of receipt of a copy of this order to the appropriate authority. In the event such prayer is made, the appropriate authority shall consider her case for grant of Child Care Leave as assured by the respondents' counsel Mr. R. Halder so that the applicant's daughter does not face any difficulty in appearing at her examinations and if nothing stands in the way, the representation seeking Child Care Leave shall be disposed of within a period of 10 days from the date of receipt of the same.

7. Both the O.A. and M.A. stand disposed of accordingly. No cost.


(Dr. Nandita Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member