

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00573/17**

Date of Order: 20.02.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Anuradha Kumari, W/o Sri Kumar Avinash, resident of Kagzi Mohalla, Bihar Sharif, District- Nalanda (Bihar)- 803101.

.... Applicant.

By Advocate: - J.K. Karn

-Versus-

1. The Union of India through the Secretary Finance, Ministry of Finance, North Block, New Delhi-110001.
2. The Chairman, Central Board of Excise & Customs, New Delhi- 110001.
3. The Chief Commissioner, Central GST and Central Excise, Ranchi Zone, Patna- 800001.

.... Respondents.

By Advocate: - Mr. Bindhyachal Rai

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- The relief sought by the applicant in this OA is to consider her request for Inter-Commissionerate Transfer to Ranchi Zone, Patna, in terms of DOPT circular and its clarification read with various circulars of CBEC and the order of this Tribunal as contained in Annexure A/2 to A/4 and A/6 to A/8 of the OA. This relief was later amended, as allowed following a Misc. Application No. 12/2019 dated 03.01.2019, to include: quashing order no 24/2018 dated 14.9.2018 (by which the representation of the applicant was rejected) and also quashing the circular dated 20th September of 2018 of the Department of Revenue, Ministry of

Finance, New Delhi (by which consideration of Inter-Commissionerate Transfer (ICT) was barred following the pronouncement of new Recruitment Rules, 2016).

2. During the pendency of this OA, through another Misc. Application No. 340/2018, this Tribunal was informed about the handling of similarly placed employees of the same department, on the same matter (ICT), by the Ernakulam Bench of CAT. Since the Division Bench was not available at that time, the applicants requested, through the said M.A, for extending the benefit of the order dated 08.08.2018 of CAT Ernakulam Bench in OA/180/00956/2017, OA/180/00148/2018 & OA/180/00164/2018, to the applicant in this case. After careful consideration of the facts, and hearing both the parties the learned Single Bench of this Tribunal passed the following reasoned orders on 24.8.2018:

“ Learned counsel for the applicant has submitted that during the pendency of the present OA, identically situated officials of the same department had approached to CAT, Ernakulam Bench for direction to the respondent to consider and allow transfer in special circumstances. CAT, Ernakulam Bench vide its order dated 08.08.2018 allowed the OA and directed the respondents to allow the applicants to join at their transferred place as recommended by the concerned committee.

L/c for the applicant has further submitted that the case of the applicant is also similar to the issued decided by the CAT, Ernakulam Bench and, therefore, the applicant has submitted her representation dated 13.08.2018 before the competent authority and requested to extend the benefit of the policy of transfer as her name has already been recommended by the committee and also in light of order passed by CAT, Ernakulam Bench (Annexure-A/1). The said representation is still pending. He has further submitted that the present OA has been filed for issuance of appropriate direction to Ranchi Zone, Patna in terms of DoP&T Circular and its clarification read with various Circulars of CBEC.

Considering the fact, this Tribunal pleased to admit the OA of the applicant. Since, Division Bench is not available, the case of the applicant has not been taken up for final adjudication. Now, during the pendency of this OA, the identically placed other officials have been allowed to receive the benefit of transfer policy on the basis of

the recommendation by the competent committee, not only that, some of the officials had approached the CAT, Ernakulam Bench and on the direction of the said Tribunal, the respondents have allowed the other similarly officials to join their duties on the transferred place. Therefore, the representation dated 13.08.2018 is required to be considered without taking any technical objection by the respondents that due to the pendency of the main OA before this Tribunal. Therefore, l/c for the applicant has submitted that the respondents may be directed to consider the representation of the applicant submitted on 13.08.2018 during the pendency of this OA.

On behalf of the respondents, Sri Bindyachal Rai, Ld. Standing Counsel has appeared and submitted that the applicant has approached for a direction to allow her to join at Patna, and the said OA is pending for final adjudication and the subject of transfer has been allowed to the Division Bench.

In is noticed in MA No. 340/2018 that the limited prayer prayed by the applicant is that during the pendency of the OA, her representation be considered in the light of order passed by

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Considering the fact, this Tribunal pleased to admit the OA of the applicant. Since, Division Bench is not available, the case of the applicant has not been taken up for final adjudication. Now, during the pendency of this OA, the identically placed other officials have been allowed to receive he benefit of transfer policy on the basis of the recommendation by the competent committee, not only that, some of the officials had approached the CAT, Ernakulam Bench and on the direction of the said Tribunal, the respondents have allowed the other similarly officials to join their duties on the transferred place. Therefore, the representation dated 13.08.2018 is required to be considered without taking any technical objection by the respondents that due to the pendency of the main OA before this Tribunal. Therefore, l/c for the applicant has submitted that the

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On behalf of the respondents, Sri Bindyachal Rai, Ld. Standing Counsel has appeared and submitted that the applicant has approached for a direction to allow her to join at Patna, and the said OA is pending for final adjudication and the subject of transfer has been allowed to the Division Bench.

It is noticed in MA No. 340/2018 that the limited prayer prayed by the applicant is that during the pendency of the OA, her representation be considered in the light of order passed by CAT, Ernakulam Bench in a similar matter. It is my considered opinion that no prejudice will cause to the respondents for consideration of the representation of the applicant. Therefore, respondents are directed to consider the representation dated 13.08.2018 in accordance with rules and also in the light of contention stated in the said representation by 17 September, 2018.

Accordingly, MA 340/2018 is allowed.

List on 17.09.2018.

L/c for the respondents is directed to place their decision on the next date of hearing in the main OA.”

3. The case has now come before this Division Bench for final hearing. The learned counsels of both the parties agree that consideration of the request of the applicant for inter- Commissionerate transfer, in line with the orders passed by the Ernakulam Bench of this Tribunal in the previously mentioned OAs, as directed by allowing the MA 340/2018, would sufficiently redress the applicant's grievance. Hence, without getting into the merits of the claims made in the OA (as amended), we dispose of this OA, by making the above orders (made in MA 340/2018) final. The OA is disposed of accordingly.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member