



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

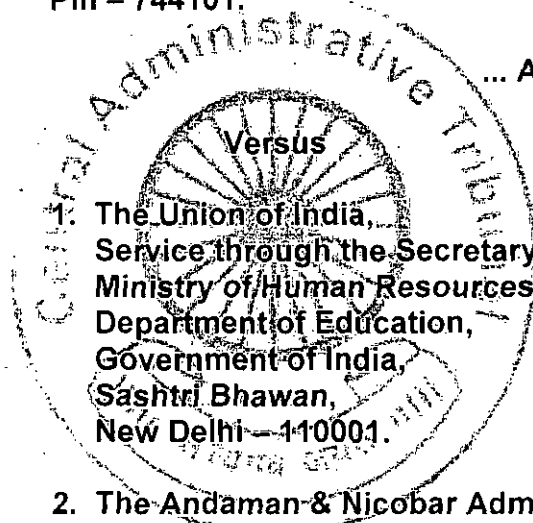
No. O.A. 351/01323/2018

Date of order: 20.11.2018

**Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Smt. Kamala Rao,
Wife of Sri V. Raja Rao,
Aged about 49 years,
residing at Sai Kripa House No.4 in front of
Dena Bank, Garacharama,
District – South Andaman,
Port Blair, Pin – 744105
Working to the post of Physical Education Teacher
in Government Girls' Senior Secondary School at
Port Blair
Under Director of Education,
Andaman & Nicobar Administration,
Pin – 744101.**

... Applicant.



- Versus**
- 1. The Union of India,
Service through the Secretary,
Ministry of Human Resources Development,
Department of Education,
Government of India,
Sashtri Bhawan,
New Delhi – 110001.**
 - 2. The Andaman & Nicobar Administration
Through the Chief Secretary,
Andaman & Nicobar Administration,
Secretariat, Port Blair, Pin – 744101.**
 - 3. The Secretary (Education),
Andaman & Nicobar Administration,
Secretariat, Port Blair, Pin – 744101.**
 - 4. The Director of Education,
Andaman & Nicobar Administration,
VIP Road, Port Blair, Pin – 744101.**
 - 5. The Deputy Director Education (Personnel),
Andaman & Nicobar Administration,
VIP Road, Port Blair, Pin – 744101.**
 - 6. The Principal,
Government Girls' Senior Secondary School,
VIP Road, Port Blair, Pin – 744101.**

... Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. R. Halder, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant, a Physical Education Teacher in Government Girls' Senior Secondary School, Port Blair, has challenged the orders dated 4.4.2018 (whereby she was transferred to North & Middle Andaman) by virtue of this instant O.A. alleging violaton of transfer policy dated 11.7.2014 (Annexure A-20 to the O.A.) and DOPT's O.M. dated 30.9.2009 (Annexure A-19 to the O.A.). The applicant has also challenged the circular / order dated 11.8.2018 and 18.8.2018 respectively vide which she has been asked to report for duty to the transferred place of posting and vide which her name has been struck off the school where she was earlier posted.

2. The respondents, by way of clarifications as directed by the Tribunal, have vociferously argued that transfer was made totally and absolutely on the basis of prevailing transfer guidelines/station seniority in Zone V & VI (Port Blair area) and in consideration of the zones in which the applicant has not completed the prescribed tenure and in terms of exigencies of the Department.

The zone-wise posting profile of the applicant has been detailed by the Respondents as under:-

Zone-I	Zone-II	Zone-III	Zone-IV	Zone-V	Zone-VI
1.10 yrs.	1.08 yrs.	00	9.01 yrs.	3.00 yrs.	13.01 yrs.

The respondents have further contended that the applicant has completed more than 16 years of service against the maximum prescribed period of 15 years in combined Zone V and VI.

It has been admitted that, in the opinion of the medical board which had examined the applicant's spouse between the period 3.7.2017 to 10.8.2018, did

hblh

recommend that the applicant's presence, care and support is absolutely essential to take care of her spouse whose transplanted kidneys are only 50% in working condition. The said medical board had also recommended that the applicant be retained at Port Blair for availing of emergency kidney care as required by the spouse. According to the respondents, that, although the medical board has examined her spouse on the basis of her representation in the year 2017, as the applicant failed to represent in 2018, she was transferred as there was no medical board examination of her husband in the year 2018. According to the respondents, the applicant is required to report for duty at her transferred place of posting and thereafter represent before the Department for consideration of her case on the medical ground of her spouse.

The respondents have admitted that, given the transfer guidelines dated 5.12.2014, particularly clause vii thereof, the request of teachers/officials whose spouses are also working in the Education Department shall be considered sympathetically for posting in the same station subject to vacancies and that the request for posting them together in Zones V and VI would be considered provided they have completed their tenure in Zones I to IV.

3. The respondents have not denied that the applicant requires to be posted with her spouse given his medical requirements. Hence, as the respondents themselves have desired to consider the prayer of the applicant sympathetically, we deem it fit not to enter into the merits of the matter but to direct the respondent No. 3, who is the Secretary (Education), A&N Administration, Port Blair to dispose of her representation dated 20.8.2018 (Annexure A-16 to the O.A.) in due adherence to the policy guidelines dated 11.7.2014 as well as DOPT's O.M. dated 30.9.2009. Further, unless the policy guidelines call for annual medical examinations to justify retention on health grounds, the recommendations of the Medical Board as made in 2017-18, are to be considered appropriately by the competent respondent authority. Till such time

hsh

the representation is considered, no coercive actions should be taken against the applicant. Decisions arrived at should be communicated forthwith to the applicant. The entire exercise may be completed within a period of six weeks from the date of receipt of a copy of this order.

4. With these directions, the O.A. is disposed of. There will be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP

