

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 042/00250/2016.

Date of Order: This, the 7th Day of December, 2018.

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Smt. Ch. Kanonbala Devi,
aged about 48 years,
W/o Th. Bigyananda Singh,
resident of Uripok Takhellambam Leikai,
P.O. & P.S. Imphal in Imphal West District of Manipur,
now serving as PET in Imphal West District, Manipur.

...Applicant.

By Advocates: Mr.Th. Babloo, Mr.M.J.Barua & Mr.Kh. Binoy Kr.

-Versus-

1. The Union of India
represented by the Secretary,
Ministry of HRD, Govt. of India,
New Delhi – 1.
2. The Navodaya Vidyalaya Samiti
an autonomous organization
under the Ministry of HRD
Deptt. of School Edn. & Literacy,
Govt. of India, B – 15
Institutional Area Sector – 62
Noida, Dist. Gautam Budh Nagar,
U.P. – 21309 represented by its Commissioner.
3. The Dy. Commissioner,
Navodaya Vidyalaya Samiti
Regional Office, Barik Point, Temple Rd.

Lachumiere Shillong – 793001.

4. Smt. Thokchom Shila Devi,
now serving in the N.V. Chandel, Manipur,
C/o. the Principal, JNV – Chandel,
Manipur – 795102.

By Advocate:

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the, applicant is seeking following relief(s):-

“(i) to admit this application for hearing;

(ii) to quash and set-aside the impugned Annual Transfer Drive – 2016 (PET Female) (Annex – 1) in so far as the applicant whose name is appearing at Serial no. 131 of the list is Concerned;

(ii) to quash and set-aside the impugned order if any, issued for the individual applicant, (of which the applicant crave leave of the Hon'ble Tribunal to allow her to produce as and when furnished to her);

(iv) to pass any other further order/direction as may deem fit and appropriate in the nature of the case.”

2. Mr. Th. Babloo, learned counsel for the applicant submitted that applicant was initially appointed as PET in JNV in

the year 1994 and presently she was serving in JNV, Khumbong in Imphal West district of Manipur under the JNV, Shillong Region. Besides, her normal duty as PET, the applicant is also functioning as Associate NCC Officer, Rank-III, Jr Army Wing of the JNV, Khumbong under the NCC Group H.Q., Imphal imparting NCC training to a batch of 50 cadets of the school. Learned counsel further submits that applicant's husband, namely, Shri Th. Bigyananda Singh is an employee of the CBI and posted at Lamphelpat, Imphal West, Manipur.

3. According to the learned counsel, vide the impugned transfer drive 2016 the applicant is sought to be transferred to Champai in Mizoram. Learned counsel submits that her only daughter is ready at Class I at Heritage Convent School in Imphal West district of Manipur and suffering from respiratory ailments. Her transfer to Mizoram will adversely affect the education of her child. According to the learned counsel as per the transfer policy dated 30.09.2009 husband and wife should be posted at the same place and thus, the impugned transfer of the applicant is violation of the transfer policy. Learned counsel further submits that in Mizoram where applicant is sought to be transferred, there is no office of the

CBI in which her husband is working, as such, her spouse cannot be posted together with the applicant at Mizoram. Learned counsel according prays for setting aside her transfer order to Mizoram.

4. While issuing notices to the respondents vide order dated 15.07.2016 this Tribunal had stayed the Annual Transfer Drive 2016 in respect of the applicant. Said interim order has been extended and is still in force.

5. Mr.M.Mahanta, learned counsel for the respondent no.2 & 3 submits that applicant has been serving at JNV, West Imphal for more than 21 years and thereby preventing other desirous employees to serve there. Further applicant had already completed her tenure as such she was liable to be transferred from her place of posting. Respondent no.4 Mrs Thokchom Sila Devi, PET (Female), JNV, Chandel requested for her transfer to JNV, West Imphal and on fulfilling all the conditions applicable for transfer as per the transfer policy and guidelines, she was transferred to JNV, West Imphal and resultantly applicant was transferred to JNV, Champhai. There was only one post of PET (Female) in JNV, West Imphal,

therefore, applicant could not be retained there. According to the learned counsel, West Imphal is the home district of the applicant and the transfer policy does not allow anyone to be posted in his/her home district.

6. Learned counsel further submits that since the applicant has been serving in JNV, West Imphal for the last 21 years, she cannot be allowed to stay there any further on the ground of spouse posting and education of her children.

7. We have heard both sides, perused the pleadings and the documents annexed therein.

8. Admittedly, applicant has been serving in JNV, West Imphal for the last 21 years. An employee cannot expect to serve in one place during his/her entire service life. Transfer is an incident of service and he/she is liable to be transferred anywhere in India at any point of time. The fact that applicant has been serving in one place for more than 21 years testifies that the respondents have been very considerate to the applicant. Besides, the medical certificate apropos the illness of her daughter is of 2013.

9. In view of the above, we are not inclined to interfere with the transfer of the applicant any further. However, the applicant's spouse is at liberty to seek posting to a place nearer to the place where the applicant is posted in terms of the following provisions of the DoPT OM dated 30.09.2009 apropos posting of husband and wife at the same station:-

“(iv) Where the spouse belongs to one Central Service and the other spouse belongs to another Central Service:-

The spouse with the longer service at a station may apply to his/her appropriate cadre controlling authority and the said authority may post the said officer to the station or if there is no post in that station to the nearest station where the post exists. In case that authority, after consideration of the request, is not in a position to accede to the request, on the basis of non-availability of vacant post, the spouse with lesser service may apply to the appropriate cadre authority accordingly, and that authority will consider such requests for posting the said officer to the station or if there is no post in that station to the nearest station where the post exists.”

In case, applicant spouse makes such prayer the appropriate authority will definitely consider the case in accordance with rules.

10. The OA is disposed of accordingly. Interim order staying the Annual Transfer Drive 2016 in respect of the applicant stands vacated.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

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