

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 043/00194/2017.

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**

MES No. 234698  
Shri Pradip Kumar Nath  
Son of Late Upendra Chandra Nath  
Junior Engineer (OS & C)  
Office of the Chief Engineer (AF)  
Shillong Zone, Elephant Falls Camp,  
Shillong , Meghalaya, Pin – 793009.

...Applicant.

By Advocates: Mr.A.Ahmed, Ms.R.R.Rajkumari &  
Ms.D.Goswami

-Versus-

1. The Union of India  
Represented by the Secretary  
to the Government of India,  
Ministry of Defence, South Block,  
New Delhi – 110011.
2. The Chief Engineers  
Headquarters, Eastern Command  
Engineers Branch, Pin – 908542 C/O 99  
APO.
3. The Chief Engineer (AF)  
Headquarters, Shillong Zone  
Military Engineer Services  
Elephant Falls Camp,  
Shillong – 793009.

By Advocate: Mr. R.Hazarika, Addl. C.G.S.C.

**O R D E R (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):-

“8.1) To set aside and quash the impugned Posting Order No. 28/2017 of POSTING/TRANSFER: TTP CUT OFF JUN 2017 CATEGORY: JE (QS&C) bearing No. 131322/PO/49/Engrs/E1C (1) DATED 23.05.2017 IN CASE OF THE Applicant.

8.2) To direct the Respondents to accommodate the Applicant in any one of his Choice Stations i.e. (a) Kolkata (b) Guwahati (c) Jorhat as mentioned in his repatriation proforma or in the office of the Assistant Garrison Engineer (I) Agartala in the State of Agartala.

8.3) To Pass any other appropriate relief(s) as may be deemed fit and proper by the Hon'ble Tribunal.

8.4) To pay the cost of the application.”

2. Mr. Adil Ahmed, learned counsel for the applicant is present and submitted that by letter No. 131300/TO/247/Engrs/E1C(1) dated 03.03.2017, the options were asked from persons who were due for Tenure Turn Over

Posting (Cut off date 30 Jun 2017). The learned counsel pointed out that the applicant's name appeared at Sl. No. 14. Accordingly, the applicant submitted his choice station for Kolkata, Guwahati and Jorhat and the same has been annexed at page 60 of the O.A. The learned counsel submitted that in the posting/transfer order No. 131322/PO/49/Engrs/E1C(I) dated 23.05.2017, although applicant's name appeared but he has not been accommodated in any of the choice station instead has been transferred to DGNP, Vizag.

3. Learned counsel further submits that against the above order, applicant made a representation on 26.05.2017 and the same is annexed at page 61 of the OA. In the said representation, the applicant highlighted three options for choice station namely - Kolkata, Guwahati and Jorhat and also requested that if the same is not possible, he may be accommodated at AGE(I), Agartala where one post of JE(QS&C) is lying vacant. Mr. Ahmed further submitted that by letter No. 131322/PO/51/Engrs/E1C(1) dated 23.06.2017, some transfer orders has been changed. However, name of the applicant does not appear.

4. Mr. Ahmed brought to the notice of the court the guidelines with regard to tenure transfer specifically para 27 which reads as follows:-

"27. On completion of tenure, the individual will be adjusted at one of the three choice station/complex given by him in the Repatriation proforma. In case of non-availability of a vacancy in any of the three choice station/complex, the affected persons due for turnover may be allowed to remain in the tenure station/complex till a vacancy arises in one of his choice station/complex.

Such employee may be given the benefit of deferment for his re-posting to tenure station/complex in his next turn for such posting. The exact period for which the benefit is to be given will be decided based on the following norms:-

(a) Upto 6 months stay in excess of the tenure. No benefit to be given.

(b) Excess stay of more than 6 months but upto 12 months. Deferment @50% of time (Months) spent in excess of the normal tenure of two or three years as applicable.

(c) Excess stay of over 12 months and above. Deferment @ 75% of time (months) spent in excess of the normal tenure of two or three years as applicable."

The learned counsel emphasized that the above provision is specific with regard to transfer at the choice station and in case there is no vacancy, then the incumbent as per

guidelines, be allowed to overstay at the same place of posting. According to the learned counsel, there is a *prima facie* case of arbitrariness in the matter and non-adherence of the guidelines.

5. Mr.R.Hazarika, learned Addl. C.G.S.C. appearing for the respondents reiterated the contentions made in the written statement and submitted that though the applicant submitted his three choice places at Kolkata, Guwahati and Jorhat, he could not be posted in any of the places due to want of vacancy.

6. We have heard the learned counsel for the parties, perused the pleadings and the documents annexed therein. The applicant's contention is that he is a native of Dharmanagar, Tripura and her aged old mother is living therein alone and after the death of his father the physical condition of his mother is deteriorating day by day, therefore, applicant submitted three choices, namely, Guwahati, Kolkata and Jorhat so that he continues to be able to take care of his ailing mother. However, his request could not be acceded due to want of vacancy at that time. Since then more than one year's

time have passed and we are in the fag end of 2018. We have also noted that by virtue of interim order dated 24.07.2017 the applicant has been continuing in Shillong.

7. In view of the above, in case by this time, there is vacancy in any of the three choice places, as submitted by the applicant earlier, he shall be accommodated against such vacancy. If there is no vacancy in any of the said three choice places, applicant is at liberty to submit three fresh choices which shall be considered by the respondents as per transfer policy/rules.

8. OA is disposed of accordingly. There shall be no order as to costs.

**(NEKKHOMANG NEIHSIAL)  
ADMINISTRATIVE MEMBER**

**(MANJULA DAS)  
JUDICAIL MEMBER**

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