

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 043/00363/2018

Date of Order: This, the 29th day of October 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Smt. R. T. Hringlun Anal
Daughter of Sri Ngamhlung Anal
Resident of Village – Chandel Khubul
P.O. Chandel, District – Chandel
Manipur, Pin – 795127.

...Applicant

By Advocates: Mr. S. Sarma, Mr. H.K. Das, Mr. U. Pathak and
Mr. D.J. Das

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Home Affairs, North Block
New Delhi- 110001.
2. The Director General of Assam Rifles
Laitkore, Shillong, Pin – 793011.
3. The Commandant
26 Sector Assam rifles Battalion
Pin – 932560, C/O 99 APO.

...Respondents

ORDER (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

Being aggrieved with the impugned order dated 30.08.2018 by which the applicant was sought to be transferred from Adhoc Hospital, Pallel, Chandel, Manipur to 10 AR Serchip, Mizoram, the applicant has preferred the instant petition under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:

- “8.1 Quash and set aside the impugned order dated 30.08.2018 by which the applicant was transferred from Adhoc Hospital, Pallel, Chandel, Manipur to 10 AR Serchip, Mizoram and grant all the consequential benefits.
- 8.2 Quash and set aside the impugned rejection order dated 12.10.2018 and the impugned signal dated 22.10.2018 containing signal message dated 15.10.2018 for early release of the applicant with all consequential benefits.
- 8.3 Direct the respondents to consider posting of the applicant either at Adhoc Hospital, Pallel, Chandel or alternatively at (1) Matripukhuri (15 AR), (2) Kaithalmanbi (6 AR) and (3) Kakching (39 AR) with all consequential benefits.”

Applicant also prays for interim prayer as follows:

“Pending disposal of the Original application the Hon'ble Tribunal may graciously be pleased to suspend operation of the impugned order dated 30.08.2018 as well as order dated 12.10.2018 with further direction of allowing the applicant in present place of posting at Adhoc Hospital, Pallel, Chandel, Manipur till disposal.”

2. It was submitted by Mr. H.K. Das, learned counsel for the applicant that applicant is presently working as Sister in the Adhoc Hospital, Pallel, Chandel. She is the only Sister in the Hospital along with an ANM to look after the patients. Apart from that the applicant is unmarried and caregiver of her old ailing parents.

3. Mr. Das submits that since applicant's initial appointment on 24.02.1993, she served at Chassad (Very Hard Station), Manipur at Mantripukhuri (Good), Manipur from 16.02.1996 till 07.06.1999, at Jwalamukhi (Hard), Manipur from 08.07.1999 to 17.08.2002, at Thoubal (Hard), Manipur w.e.f. 18.08.2002 to 14.12.2007, at Shillong (Good) from 15.12.2007 to 03.05.2012, at Kashiram Basti (Good) from 04.05.2012 to 23.08.2015. According to Mr. Das, the applicant joined 21 Assam Rifles located at Pallel in the district Chandel, Manipur on 24.08.2015 which is a hard station. Therefore, it is apparent that the applicant never disobeyed any transfer order and she only prayed for further continuation in a hard station for sake of her parents and reconsideration of her posting at any of the places i.e. (1) Matripukhuri (15 AR), (2) Kaithalmanbi (6 AR) and (3) Kakching (39 AR) wherefrom she can take care of her parents.

Mr. Das fairly submits that all the above three stations are hard stations and the applicant failed to find any reason for her continuation in a hard station. However, the respondents failed to appreciate the responsibility of the applicant towards her old ailing parents while passing the impugned orders dated 30.08.2018 and 12.10.2018.

4. Mr. Das further submits that father of the applicant is 80 years old had had undergone Choleithiasis surgery. The mother of the applicant who is 75 years of age also suffering from Osteopenia and Type-II diabetes. On receipt of the impugned order dated 30.08.2018 (so far the applicant is concerned), the applicant submitted representation dated 05.09.2018 before the respondent authority praying for extension of her tenure in Chandel owing to the precarious physical condition of her both parents. There is no one in the family to take care of her parents and both of them are staying with her which was recommended by Commandant, 26 Sector Assam Rifles vide communication dated 10.09.2018. Competent authority also recommended the case of the applicant for reconsideration of posting at any nearby place in Manipur vide recommendation dated 25.09.2018. However, the

respondent authority without considering the representation of the applicant, in a cryptic manner, issued the impugned order dated 12.10.2018 by which application of the applicant was returned. Thereafter, on 22.10.2018, the respondents issued impugned signal containing the signal message dated 15.10.2018 by which 21 AR/Adhoc Hospital, Paael was directed to release the applicant enabling her to join at 10 AR Serchip, Mizoram. However, till date, the applicant is working at Adhoc Hospital, Pallel.

5. Mr. Das further submits that neither the transfer order dated 30.08.2018 nor the impugned rejection order dated 12.10.2018 (2018 (so far the applicant is concerned) shows any reasons for transfer of the applicant. The law is well settled that any order having civil consequences without any reasons is arbitrary. There is no public interest or administrative exigency involved in the transfer of the applicant. There is no one to replace the applicant in the present place of posting. Therefore, the instant transfer order dated 30.08.2018 and rejection order dated 12.10.2018 (so far the applicant is concerned) without any reason, without any public interest involved is arbitrary and liable to be set aside and quashed.

6. Mr. Das submits that till date she has not been relieved from her present place of posting and she is still serving as Sister at Adhoc Hospital at Pallel, District – Chandel, Manipur. However, in view of order dated 12.10.2018, the respondents made move vide signal order dated 15.10.2018 to relieve the applicant as early as possible. According to Mr. Das, the applicant has made out a prima facie case of illegality and arbitrariness on the part of the respondents. The balance of convenience is in favour of the applicant for such an interim order. If interim order is not granted, the applicant may suffer irreparable loss and injury.

7. We have heard the learned counsel for the applicant, perused the pleadings and material placed on record. The instant applicant has been made by the applicant against the impugned order dated 30.08.2018 by which she was sought to be transferred from Adhoc Hospita, Pallel, Chandel, Manipur to 10 AR Serchip, Mizoram as well as impugned rejection order dated 12.10.2018. She is also aggrieved with the signal dated 22.10.2018 wherein contained signal message dated 15.10.2018 for early release of the applicant.

8. From the perusal of record, it is noted that father of the applicant is 80 years who had undergone Choleithiasis surgery. Mother of the applicant who is 75 years of age also suffering from Osteopenia and Type – II diabetes. Apart from that, she is also suffering from Lumbar Spondylosis and under treatment at RIMS Hospital and as per advice of the doctor, she requires regular medical check up and bed rest.. The representation dated made by the applicant on 05.09.2018 was also recommended to the HQ, DGAR, Shillong by Commandant, 26 Sector Assam Rifles with a request that after extension of tenure, applicant may be posting to any of the locations at (a) Mantripukhri (15 AR), (b) Kaithalmanbi (6 AR) and (c) Kakching (39 AR). However, despite considering the same, the respondents issued the impugned order dated 12.10.2018 by which application of the applicant was returned/rejected.

9. It is also noted that applicant is by now aged about 54 years. It is also evident that 10 AR Serchip, Mizoram is about 30 km away from rail head. It is also palpable from the record that she is the sole care giver of her old and ailing parents who are both suffering from serious old ages.

10. In view of the foregoing discussion and without issuing notice to the respondents, the court has left no option but to issue a direction to the respondent authority to consider posting of the applicant in any place of three places as suggested by respondent No. 3 (the Commandant, 26 Sector Assam Rifles Battalion, Pin – 932560, C/O 99 APO) i.e. (a) Mantripukuhri (15 AR), (b) Kaithalmanbi (6 AR) and (c) Kakching (39 AR) subject to the availability of vacancy by keeping in mind that applicant is aged about 54 years and health condition of her ailing parents within a period of three months from the date of receipt copy of this order. Ordered accordingly. Till then, applicant shall not be disturbed from her present place of posting at Adhoc Hospital, Pallel, Chandel, Manipur.

11. With the above observations and direction, O.A. stands disposed of accordingly at the admission stage itself. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)