

OA.No.170/01821/2018/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01821/2018

DATED THIS THE 14TH DAY OF JUNE, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

Sri Biswajit Majumder
S/o Late Bimal Majumdar,
Aged about 43 years,
Working as Driver Grade II,
O/o the Director, Visvesvarayya Industrial
And Technological Museum
Ministry of Culture
Government of India
P B No. 5216, Kasturba Road,
Bengaluru 560 001
R/at No. 10, 2nd Cross, Rajiv Ghandhi Road,
L B Shastri Nagar, Vimanapura Post,
Bengaluru
(By Advocate M/s Arya Law Chambers)

..... Applicant

Vs.

1. The Union of India,
Represented by its Secretary
Ministry of Culture,
Room No. 501, "C" Wing,
Shastri Bhavan,
New Delhi 110 015

2. The Director General,
National Council Science Museum,
Ministry of Culture,
Government of India,
33, Block, GN-Sector-V
Bidhan Nagar,
Kolkata 700 091

3. The Director,
Visveswarayya Industrial and
Technological Museum,
Ministry of Culture,
P B No. 5216, Kasturba Road,
Bengaluru

....Respondents

(By Shri V.N. Holla, Counsel for Respondent No. 1 and
M/s Hegde Associates, Counsel for Respondent No. 3)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

This is a second time litigation following a liberty granted by the Hon'ble High Court to take up one additional point in his representation that his children are studying in Bangalore. Apparently thereafter he submitted one more representation before the concerned authority at Kolkata who had examined the matter factually and found that in fact applicant's family is resident at Kolkata only and not at Bangalore. We quote from Annexure-A9:

***"National Council of Science Museums
33, Block-GN, Sector-V, Salt Lake
Kolkata-700 091***

File No.I-17012/3(Conf.)/2018/4371

Date: 06.11.2018

O R D E R

WHEREAS, by NCSM Office Order No.10/2018 dated 22.02.2018, Shri.Biswajit Majumdar, Ex-Driver (Gr.II), VITM, Bengaluru has been transferred from VITM, Bengaluru to NCSM (Hqrs.), Kolkata in public interest;

AND WHEREAS, Shri Majumdar filed OA No.170/157/2018 before the Hon'ble Central Administrative Tribunal, Bengaluru praying for his retention in Bengaluru;

AND WHEREAS, by its order dated 19.09.2018, the Hon'ble Central Administrative Tribunal, Bengaluru Bench, Bengaluru has dismissed the said OA No.157/2018 upholding the order of transfer of Shri.Majumdar as issued by the Respondents.

AND WHEREAS, Shri.Majumdar had subsequently filed a Writ Petition bearing No.44172/2018 before the Hon'ble High Court of Karnataka, Bengaluru Challenging the Order dated 19.09.2018 of CAT, Bengaluru.

AND WHEREAS, the Hon'ble High Court of Karnataka had dismissed the said Writ Petition bearing No.44172/2018 of Shri.Majumdar on 11.10.2018 with the directions as reproduced below:-

"We reserve the liberty to the petitioner to make a representation to the 2nd respondent enclosing all documents in support of his claim that his family is also residing at Bengaluru and his children are studying at Bengaluru. If such representation is made by the petitioner, Respondent No.2 shall examine the same and in that regard take a decision. If the petitioner satisfies the 2nd Respondent about his claim that his children are studying in Bengaluru and his family would get disrupted, in such event an appropriate decision in favour of the petitioner be taken. In any event the decision on the representation of the petitioner shall be taken as expeditiously as possible but not later than three weeks from the date on which the representation is submitted".

AND WHEREAS, in pursuance of the said order of the Hon'ble High Court of Karnataka, Shri.Majumdar has submitted a representation dated 23.10.2018 before the undersigned praying for cancellation of the transfer order dated 22.02.2018 passed by the undersigned and for retaining him at Bengaluru or within the South zone. Copies of following documents were furnished by Shri.Majumdar to support his claim that he is a permanent resident of Bengaluru:-

- 1. Copy of SSLC Certificate dated 8.12.99 issued by the Karnataka Secondary Education Examination Board, Bengaluru.*
- 2. Copies of Aadhar Cards Bearing No.7576 5966 3258, 5323 8417 9905 of Shri Majumdar and his wife, Ms.Mousumi Majumdar, indicating the current address as No.10, 2nd Cross, Rajiv Gandhi Road, L.B.Shastri Nagar, Vimanapura Post, Bengaluru, Karnataka-560 017.*

3. *Driving License bearing No.KA0319970004866 issued by the Karnataka Transport Department.*
4. *Voter ID Card bearing No.UZJ3804416 of Shri.Majumdar showing the address as 1661, L.B.Shastri Nagar, Bengaluru-560 017.*
5. *Ration Card No.BLEI00210806 in the name of Shri.Majumdar issued by the Food, Civil Supplies and Consumer Affairs Department, Government of Karnataka, wherein, his wife, Mousumi Majumdar and his son Soumyajit Majumdar have been included as family members.*
6. *ID Cards of his son i.e., Master Soumyajit Majumdar showing that he was student of Nursery and LKG in the little Bunnies Pre School, Annasandra Palya, Bengaluru-560 017.*
7. *The Copy of property tax challan dated 4.4.18 showing payment of Rs.3429 to BBMP, Bengaluru indicating (1) Shri Shyamal Majumdar (2) Shri.Sittal Majumdar & (3) Shri.Biswajit Majumdar as the joint owners of property 10, 2nd cross, LB Shastri Nagar Main Road.*
8. *Receipt No.0934200 dated 18.5.2013 issued in the name Smt.Sandhya Majumdar, No10 KN No.156, LBS Nagar, Bengaluru.*

AND WHEREAS, the undersigned has carefully gone through the submissions made by Shri.Majumdar in his representation as also the documents submitted by him in support of his permanent residency in Bengaluru and the findings/observations of the undersigned in respect of each of the document are as recorded here below:-

Sl. No.	Documents	Observations
1.	SSLC Certificate dated 8.12.99 issued by the Karnataka Examination Board	Any citizen of India can get enrolled in any of the schools/colleges in India falling under the jurisdiction of any education board. The fact that Shri.Majumdar had obtained his SSLC Certificate from the Karnataka Secondary Education

		<i>Examination Board cannot be considered to be sufficient proof to conclude that his family is residing in Bengaluru and his child is studying in Bengaluru.</i>
2	<i>Adhar Cards bearing No.7576 5966 3258 & No.5323 8417 9905 of Shri.Majumdar and his wife respectively</i>	<i>The address in the Aadhaar Card can be updated to incorporate the current address of any of the citizens of India in anywhere in the country and it appears that Shri.Majumdar, subsequent to his transfer from Kolkata to Bengaluru, had got the current residential address duly updated in the Aadhaar cards of himself and his wife. Just because the aforesaid aadhar cards bear the current residential address of Bengaluru cannot be construed as sufficient and valid proof to establish that Shri.Majumdar and his family are permanent residents of the city of Bengaluru and his child is studying in Bengaluru.</i>
3.	<i>Driving License No.KA03 19970004866 & Election ID card bearing No.UZJ3804416 of Shri.Majumdar</i>	<i>These document can be obtained from the respective authorities where the incumbent is presently residing and those are not documents which establishes, beyond doubt, the permanent residency of the applicant and his family in the city of Bengaluru.</i>
4	<i>Property Tax Challan bearing No.181049975</i>	<i>It has been observed from the copy of the said property tax challan that Shri.Biswajit Majumdar is only one of the Co-owners of the property at No.10, 2nd Cross, L.B.Shastri Nagar, Bengaluru and the 1st and 2nd Owners being one Shri.Shyamal Majumdar and Shri.Sittal Majumdar. Any citizen in the country can acquire property in any place in the country except in the State of Jammu & Kashmir and it is quite common that Government employees acquire property at the place of their work.</i>

		<i>Shri.Majumdar has been working in Visvesvarya Industrial & Technological Museum, Bengaluru for quite some time now and it is only normal to acquire such properties and just because he is a co-owner of some property in Bengaluru he cannot claim that he and his family are permanent residents of Bengaluru. This also doesn't prove that his child is currently studying in Bengaluru.</i>
5.	<i>Receipt No.0934220 dated 18.5.2013 issued in the name Smt.Sandhya Majumdar</i>	<i>The receipt doesn't support his claim of permanent residency in Bengaluru</i>
6.	<i>ID cards issued by Little Bunnies Pre School, Annasandra Palya HAL, Bengaluru</i>	<i>The said ID Cards issued by the school only reveals that Master, Soumyajit Majumdar, son of Shri Biswajit Majumdar studied in Nursery and LKG classes in the Little Bunnies Pre School, Annasandra Palya HAL, Bengaluru at some point of time. The undersigned, has however, observed from the copy of birth certificate earlier furnished to the office by Shri.Majumdar that his son was born on 14.08.2010 in 'Singjole Village, PO-Digha, PS-Gaighata, Dist-North 24 Paraganas, West Bengal. It has further come to the notice of the undersigned that Shri.Majumdar had preferred the claim for Children Education Allowance for the Financial year 2017-18 in August 2017, according to which, his son, Master Soumyjit Majumdar was studying in Class II in St.Stephen's School, Habra, West Bengal, which is the home state of Shri.Majumdar. Besides this, Ms.Mousumi Majumdar W/o Shri.Biswajit Majumdar had mentioned in her representation dated 10.10.2018 that she has</i>

		<p><i>applied for a Transfer Certificate in respect of his son from the school in West Bengal where he is studying at present.</i></p> <p><i>The undersigned further observed that, as per office records, the declared Home town of Shri Majumdar as on date is “No.64, Rabindra Pally, Pandit Pukur, Shyam nagar PO, District 24 Parganas, West Bengal-743 127”</i></p> <p><i>Further, he had also applied for Home Town LTC to “No.64, Rabindra Pally, Pandit Pukur, Shyam nagar PO, District 24 Parganas, West Bengal-743 127” on 02.03.2018 for the block Year 2016-2017 (during the grace period) which was approved and sanctioned by the Competent Authority on 26.03.2018.</i></p> <p><i>The above clearly confirms the fact that Shri.Majumdar is a native of West Bengal and his family is residing there and the child of Shri.Majumdar is currently studying in a school in his home state of West Bengal and not in Bengaluru as is being misled by him.</i></p>
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AND WHEREAS, after careful consideration of his submissions and the findings in respect of the documents furnished by Shri.Majumdar, and after having fully convinced about the fact that Shri.Majumdar is a permanent resident of No.64, Rabindra Pally, Pandit Pukur, Shyamnagar PO, District 24 Parganas, Kolkata-743 127, West Bengal and the family of Shri.Majumdar is residing in the state of West Bengal and his child is also studying in St.Stephen’s School, Habra, West Bengal, for which he claimed Children Education allowance for the year 2017-18, the undersigned is not satisfied that Shri.Majumdar is residing in Bengaluru with his family and more particularly that his child is studying in Bengaluru as claimed by him

before the Hon'ble High Court of Karnataka in an apparent move to mislead the Court. The statement made by Ms.Mousumi Majumdar w/o Shri.Biswajit majumdar that she is trying to get a transfer certificate for her son to Bengaluru confirms that at present the family is residing at their native Town, Kolkata and his family would not be disrupted in any way due to the transfer order. Shri Majumdar is unable to produce any tangible evidence before the undersigned that he is residing with his wife and children at Bengaluru as on the date of the transfer order and that he is put to any hardship and his family would be disrupted in the event of his transfer to Kolkata. On the other hand, the transfer would facilitate him to join his family at Kolkata without any difficulty. The documents produced by Shri.Majumdar only show that he is having some address proof at Bengaluru but do not establish that he is living with his family in Bengaluru and that his child is studying in Bengaluru and that his family would get disrupted in the event of his transfer. The undersigned was called upon by the Hon'ble High Court of Karnataka to evaluate all these facts and to arrive at a decision and after going through all the materials available on record, the undersigned does not find any merit in the claim of Shri.Majumdar that he is residing with his family and that his son is studying in Bengaluru and the same cannot be accepted under any circumstances.

The representation filed by Shri.Majumdar, therefore, stands rejected and the undersigned is not inclined to order for cancellation of his transfer order dated 22.02.2018 passed by the Competent Authority in public interest, transferring him from VITM, Bengaluru to NCSM (Hqrs), as requested by Shri.Majumdar.

It is also brought to the notice of the undersigned that VITM has already issued relieving Orders bearing No.4(5)/A&E/2018/641-649 dated 27.09.18 & No.4(5)/A&E/2018/652-659 dated 01.10.18 relieving Shri.Majumdar of his duties at VITM, Bengaluru w.e.f. 01.10.2018 (F/N) and the same shall prevail with full force.

Sd/-

(Shri A.D.Choudhury)

Director General, NCSM &

Respondent No.2

To
Shri Biswajit Majumdar
Driver Gr.II,
NCSM, Kolkata”

2. The factual matrix is explained in Annexure-A9. There is no challenge as such against the factual findings as, following the reply, applicant has not filed a rejoinder. The case of the applicant seems to be that he had acquired an immovable property at Bangalore which he had produced as document No. 9, 10 and 11. He apparently had completed his SSLC at Bangalore and had produced the SSLC marks card. His passport also seems to be taken from Bangalore, going by the record he had produced. In fact, we had examined Annexure-A9 and found that on all these documents correct answers have been given by the concerned authority and they have found that factually his child is studying at St. Stephen's School, Habra, West Bengal for which the applicant had claimed Children Education Allowance for the year 2017-2018. Therefore, what is stated by the applicant in his OA does not seem to be factually correct. There is no merit in the OA.

3. The OA is dismissed. No order as to costs.

(C.V. SANKAR)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/01821/2018

Annexure-A1: Copy of the Bye Law NCSM

Annexure-A2: Copy of the Transfer Guideline
Annexure-A3: Copy of the Transfer Order dated 22.02.2018
Annexure-A4: Copy of the Interim Order in OA No. 157/2018
Annexure-A5: Copy of the order dated 19.09.2018 in OA No. 157/2018
Annexure-A6: Copy of the WR No. 44172/2018
Annexure-A7: Copy of the order dated 11.10.2018 in WP No. 44172/2018
Annexure-A8: Copy of the representation dated 23.10.2018
Annexure-A9: Copy of the order dated 06.11.2018 passed by the 2nd respondent
Annexure-A10: Copy of the list of address proof confirmed by the government
Annexure-A11: Copy of the employee service certificate of Smt Sandhya Majumdar
Annexure-A12: Copy of the service certificate of Smt Sandhya Majumdar
Annexure-A13: Copy of the death certificate of Smt Sandhya Majumdar
Annexure-A14: Copy of the sale deed
Annexure-A15: Copy of the passport of the applicant
Annexure-A16: Copy of the attendance chart of the applicant till 15.11.2018
Annexure-A17: Copy of the appointment of Director dated 23.02.2018
Annexure-A18: Copy of the publication in respect of driver appointment

Annexures referred in reply statement

Annexure-R1: Copy of the VITM OM dated 01.10.2018
Annexure-R2: Copy of the joining letter for reporting duty
Annexure-R3: Copy of the NCSM OM dated 04.01.2019
Annexure-R4: Copy of the Home Town Declaration
Annexure-R5: Copy of the 1st page of Service Book of the applicant
Annexure-R6: Copy of the VITM offer of appointment dated 02.09.2004
Annexure-R7: Copy of the VITM OM dated 16.09.2004
Annexure-R8: Copy of the VITM OM dated 05.09.2005
Annexure-R9: Copy of the VITM OM dated 08.03.2006
Annexure-R10: Copy of the VITM OM dated 12.09.2006
Annexure-R11: Copy of the VITM offer of appointment dated 16.10.2006
Annexure-R12: Copy of the acceptance letter and declaration dated 18.10.2006
Annexure-R13: Copy of the VITM OM dated 21.10.2006
Annexure-R14: Copy of the VITM OM dated 15.03.2007
Annexure-R15 to R17: Copy of the NCSM Bye-laws
Annexure-R18: Copy of the birth certificate of Master Soumyajit Majumdar
Annexure-R19: Copy of the Children Education Allowance claim of the applicant
Annexure-R20: Copy of the Home Town LTC application dated 02.03.2017 and VITM sanction OM dated 27.03.2017
Annexure-R21: Copy of the attestation form submitted by the applicant dated 20.03.2007
Annexure-R22: Copy of the representation of the applicant dated 11.04.2008
Annexure-R23 to R26: Copy of the representations submitted by the wife of the applicant

Annexure-R27 & R28: Copy of the emails dated 27.09.2018 and 01.10.2018

Annexure-R29 & R30: Copy of the envelopes showing "Addressee Left."

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