

LIBRARY

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O A NO. 350/0001287/2019

Dated : 24.09.2019

Coram :

Hon'ble Ms. Manjula Das, Judicial Member

Hon'ble Mr. Nekkhomang Neihsial, Administrative Member

Tirthanath Sarma

Son of Late Tarun Chandra Sarma, aged about 44 years at Present working as JII-II/Exe on deputation to Intelligence Bureau under the control of Additional Director, Subsidiary Intelligence Bureau, Ministry of Home Affairs, at present residing at No.3, Aurobinda Sarani, Airport Gate No.1, P.O: Halgocha, Kolkata-700 079:

Applicant

-Versus-

1. Union of India service through the Secretary, Ministry of Home Affairs, 3rd Floor, NDCC-II Building, Jaisingh Road, New Delhi-110 001.

2. The Director, Intelligence Bureau, Ministry of Home Affairs, North Block, New Delhi.

3. The Joint Deputy Director/C-III, IB, Headquarters, Ministry of Home Affairs, 35, Sardar Petel Marg, New Delhi.



4. Additional Director & Head of Office, Subsidiary Intelligence Bureau, Ministry of Home Affairs, 9/1, Gariahat Road, Kolkata-700 019.

5. The Assistant Director/E, Subsidiary Intelligence Bureau, Ministry of Home Affairs, 9/1, Gariahat Road, Kolkata-700 019.

6. Director General, Sashastra Seema Bal, Govt. of India, Ministry of Home Affairs, Force Headquarters, East Block-V, R K Puram, New Delhi-110 066.

.....Respondents.

For the Applicants:

For the Respondents:

Mr. C. Sinha, Counsel

Mr. R. Halder, Counsel

ORDER (ORAL)

Ms. Manjula Das, Judicial Member:-

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following reliefs :

- a) To set aside and quash impugned Office Order No.405/Estt/2019 dated 31.07.2019/01.08.2019 issued by Asstt. Director (E), Subsidiary Intelligence Bureau.
- b) To direct the respondents to extend the period of deputation of the applicant for a further period of one year w.e.f. 28.09.2019 to 27.09.2020.
- c) Any other order or orders as the Hon'ble Tribunal Deems fit and proper."

2. Mr.C.Sinha, learned counsel for the applicant submitted that applicant while working as Head Constable (GD) in Sashastra Seema Bal (SSB in short) applied for deputation to Bureau of Immigration (BOI in short) and on selection, he was sent on deputation to Intelligence Bureau (Ministry of Home Affairs) initially for three years. Thereafter his period of deputation was extended for the 4th year w.e.f. 28.09.2018 to 27.09.2019 vide order dated 11.07.2018 with the clarification that the official would stand repatriated on completion of extended deputation service. Learned counsel further submitted that as the deputation would end on 27.09.2019, applicant submitted representations dated 31.01.2019 and 08.02.2019 for further extension which was forwarded. According to the learned counsel, his extension of deputation was recommended by the Assistant Director, Reception (HO), SIB, Kolkata vide memorandum dated 08.02.2019. However, vide the impugned order dated 01.08.2019 it was reiterated that applicant would stand relieved to his parent department (SSB) on completion of his deputation tenure on 27.09.2019.

3. Learned counsel for the applicant further submitted that applicant submitted another representation dated



08.08.2019 praying for extension of deputation tenure upto 30.03.2020. Learned counsel submitted that his wife is pregnant and her expected date of delivery is on 26.01.2020 as per medical prescription and that his daughter is studying in Class III at St. Stephens School, DumDum and her academic session would complete by 30.03.2020. Learned counsel further submitted that the SSB has already issued NOC for extension of deputation service upto 31.03.2020. Learned counsel therefore, submitted that his limited prayer is to issue a direction to the respondents to allow the applicant to continue in his deputation service at least till the completion of his daughter's academic session i.e., upto 30.03.2020.

4. Mr.R.Haldar, learned counsel for the respondents submitted that though the SSB has issued NOC for extension upto 31.03.2020, the approval of MHA has not yet been granted. However, learned counsel fairly submitted that he has no objection in considering the prayer of the applicant upto the completion of his daughter's academic session.

5. In the case of **Director of School Education, Madras & Others v. O. Karuppa Thevan & Another**, 1996 Supp. (2) SCC 666, the Apex Court held that transfer of an employee during mid

academic term is not proper unless exigencies of service are urgent for making such transfer. In the instant case the applicant has fairly submitted in the OA that he is ready to join his parent department after the academic session of his daughter is over by March, 2020. Learned counsel for the respondents also has no objection in considering the prayer of the applicant upto 30.03.2020.

6. In view of the above submissions of the both sides, and the ratio laid by the Apex Court in **O Korup Thivan (supra)**, we direct the respondents to allow the applicant to continue on deputation service at SIB, Kolkata upto 30.03.2020 i.e., till completion of his daughter's academic session 2019-2020.

7. The OA is disposed of as above at the admission stage itself. No costs.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

/BB/