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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH,

CALCUTTA

O. A. No. 350/00 1011 of 2019

IN THE MATTER OF:

SMT. SOVA RAJAK,

wife of Shri Satya Narayan Rajak, aged about 44 years, residing at 222L, Raja Ram Mohan Roy Road, Flat No. 6, Kolkata-700008 and working as JTO(S) in the office of Directorate of Quality Assurance (Metals & Explosives), Post Office- Ichapur-Nawabganj, District- 24-Parganas (North) under overall control and authority of Director General of Quality Assurance (DGQA), Government of India, Ministry of Defence;

...Applicant

-Versus-

1. **UNION OF INDIA** service through the Secretary, Ministry of Defence, Department of Defence Production, New Delhi, Room No. 136, South Block, Nirman Bhawan, New Delhi-110011.

2. **THE DIRECTOR GENERAL,**
Directorate General of Quality
Assurance (DGOA) Organisation,
Government of India, Ministry of
Defence, Department of Defence
PRoduction, Nirman Bhawan, New
Delhi-110011;

3. **THE ADDITIONAL DIRECTOR
GENERAL OF QUALITY
ASSURANCE (Metals & Explosives),**
Government of India, Ministry of
Defence, Department of Defence
Production, Post Office- Ichapur-
Nawabganj, District- 24-Parganas
(North), Pin-743144.

4. **THE DEPUTY DIRECTOR** in the
office of Additional Director General
Of Quality Assurance (Metals &
Explosives), Government of India,
Ministry of Defence, Department of
Defence Production, Post Office-
Ichapur-Nawabganj, District- 24-
Parganas (North), Pin-743144.

...Respondents.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/350/1011/2019

Date of Order: 30.07.2019

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sova Rajak

.....Applicant

Vrs.

Union of India & Ors.

.....Respondents

For the Applicant(s): Mr. P.C.Das, Counsel

For the Respondent(s): Mr. B.B.Chatterjee, Counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

Aggrieved with a transfer order dated 04.06.2018 and a rejection order dated 18.07.2019, this application has been filed to seek the following reliefs:

"a) to quash and/or set aside the impugned transfer order dated 8th June, 2018 issued by the Deputy Director for Additional DGQA, Department of Defence Production, Directorate of Quality Assurance (Metals & Explosives), Post Office-Ichapur-Nawabganj, District-24-Parganas (North) by which your applicant has been transferred from DQA (M&E), Ichapur, West Bengal to CQA(A), Pune, Maharashtra wherein the name of the applicant appeared at Serial No. 9 which is utter violation of their own Transfer Policy circulated vide office memo dated 30th November, 2016 issued by the DGQA Headquarters being Annexure A-6 of this original application.

(b) To quash and/or set aside the impugned office order dated 10th July, 2019 by which the respondent authority directed the applicant to intimate the likely date of SOS within 12th July, 2019 for further necessary action being Annexure A-7 of this original application.

(c) To quash and/or set aside the impugned office order dated 18th July, 2019 by which without considering the representation of the applicant in terms of exemption of rotational transfer by issuing a cryptic order the respondent authority communicated to the applicant to intimate suitable SOS date to his office by 23rd July, 2019 being Annexure A-8 of this original application.



(d) To declare that the long distance transfer in respect of the applicant from DQA (M&E), Ichapur, West Bengal to CQA(A), Pune, Maharashtra despite the vacancy arose in the category of JTO(S) in the present department is otherwise bad in law and illegal and also in violation of Transfer Policy and also in violation of the decision of the Hon'ble Supreme Court in the case of TSR Subramanian (supra) and which may be liable to quashed and/or set aside.

(e) Costs;

(f) Any other relief or reliefs....."

2. The extract of the transfer order is as under:

"No. B/85336/DGQA/M&E-5/Transfer/ME Dated 04-Jun'2018

To

The Controller, CQA(ME), Pune-41102/OIC,CQA(ME)Cell, OF, Nalanda-803121
The SQAQ, SQAQ(ME), Bhandara- 441906/SQAQ(ME), Itarsi-461122/SQAQ(ME),
Aruvankadu-643202
The SQAQ, SQAQ(A) Bolangir-767770/SQAQ(A) Chandrapur-442501.
The QAO, QAE(ME), Khamaria-482005/QAE(ME), HEF, Pune-411002.

POSTING/TRANSFER UNDER RTS-2018: JTO (S)
SP NO. 5 (MILITARY EXPLOSIVE)

Ref: GoI MoD (DP) letter No. A/96995/RTP/DGQA/ADM-7B/D(QA)/2016
Dated 24 Nov 2016

3. The following postings/transfers on duty of permanent nature are hereby ordered by the competent authority:-

Sl. No.	Name Smt/Sri/DOB	Posted out From	Posted to	Remarks
	xxx	xxx	xxx	xxx
9.	Smt. Sova Rajak 27/02/1975	DQA(M&E) Ichapur	CQA(ME) Pune	Against chain vacancy Smt HG Pawar, being posted out RTS-2018.

3. The posting/transfer order to be implemented by 04 July 2018.

4. Movement order to be issued after obtaining the confirmation regarding availability of vacancy from the receiving unit in case of chain vacancy/retirement vacancy/vacancy due to temporary transfer of posts only.

5. No representation whatsoever will be entertained prior to the move of the individual. However, representation if any may be forwarded to this Dte. duly recommended by HOE through AHSP on completion of movement.

6. Completion report on implementation of this RTS-2018 order be forwarded by HOEs concerned to AHSP by 05 July'2018. Further, a consolidated completion report be submitted by AHSP to this Dte. By 10 July' 2018.

7. The above individual will be entitled for TA/DA and other transfer benefits including joining time as admissible.

-Sd-

(Ajay Kumar)

Dy. Director

For Offg. Addl. DGQA"

3. Ld. Counsel for the applicant drew our attention to an order dated

8.07.2019, which reads thus:

"No. B/85336/DGQA/M&E-5/Transfer/ME

Date: 18 Jul'2019

To

Smt. Sova Rajak
JTO(S)
DQA(M&E)
Ichapur-743144

POSTING TRANSFER UNDER RTS-2018; JTO (S) SP NO. 5 (MILITARY EXPL.....)

Ref: Your application No. Nil dated 14.07.2019

2. In connection with your application dated 14.07.2019 under reference req..... to SOS on 30th Sep' 2019 from this office in accordance with RTS-2018 order da.....Jun' 2018 has been considered but not accepted by the Competent Authority andto release/SoS by 31.07.2019.

3. Hence, it is requested to intimate suitable SOS date to this office by 23rd July"

-Sd-
(Ajay
Dy.
For Add"

Placing the above order, Ld. Counsel would strenuously urge that the order being a non-speaking one is bad in law and ought to be quashed.

4. The respondents have submitted that it is prevailing practice for transfer of Group-B Officials from one station to another station under Rotation Transfer Scheme (RTS) for wide exposure of the officials to meet the varied functional requirements of this important department like DGQA and MoD, Department of Defence Production, which is entrusted with Quality Assurance of Stores manufactured at Ordnance Factories. Cumulative service of the applicant in the station (considering lower grade) is 21 years 05 months since joining in the organisation and more than 11 years 09 months at DQA(M&E), Ichapur. The applicant was exempted from transfer under RTS-2017 in accordance with DoP&T OM No. 28034/9/2009-Estt(A) dated 30 Sept 2009. But the application of the officer for further exemption from transfer under RTS-2018 could not be considered because of requirement of manpower for posting at CQA(ME), Pune.

The posting details, as furnished by the respondents would be as under:

Sl. No.	Name /Date of Birth	DOR	Name of Establishment	Posting Profile			Choice of preference	Justification/Remarks
				Estt	Period From	Period to		
1.	Smt Sova Rajak 27.02.1975	28.02.2035	DQA(M&E), Ichapur	SQAE(A), Hastings Kolkata-22	13.01.1997	27.09.2006	i) CQA(ME), Pune ii) QAE(ME), Khamaria iii) SQAE(ME), Bhandara	Completed more than 07 years of service in the present station. Her spouse is doing business. An application requesting for exemption under clause 8(e) of the policy received from the individual alongwith posting profile is enclosed herewith. Therefore, the officer was recommended for exemption for RTS-2017 as per Para 8(e) of policy under clause posting of husband and wife at same station
				DQA(M&E), Ichapur (WB)	28.09.2006	Till date		

Posting Profile for RTS-2018

Sl. No.	Name /Date of Birth	DOR	Posting Profile					Choice of Station	Proposed posting Station	No. of vacancy available	Recommendation
			Estt	Post	Period From	Period to	Total Period				
	Smt Sova Rajak 27.02.1975	28.02.2035	SQAE(A), Hastings	ISA-II	13.01.1997	06.09.2001	09 Year 08 months	Requested for exemption	Exempted from RTS-2017	N/A	Completed 21 Years 09 Months at station (considering lower grade)
				SA-II	07.09.2001	31.12.2005					
				SA	01.01.2006	27.09.2006					
			DQA(M&E), Ichapur	JTO(S)	28.09.2006	01.07.2018	11Y09M				

5. We heard the Ld. Counsels and perused the materials on record.
6. We would note that the applicant preferred a detailed representation on 27.04.2018 to the Addl. DGQA, seeking exemption from RTS-2018 as per provision where only wife is Govt. servant in PAR 8(e) of RTS policy and DOPT OMS dated 12 June 1997 and 30 Sept. 2009 stating as under:

3. Sir, due to following reasons / problems I am not in a position to move from Kolkata:-

a) Sir, My 11 years old daughter & 7 years old son both are studying in class VII and II respectively (School certificates enclosed Flag-D).

b) My husband has been doing his personal business within Kolkata since last 20 years. So he cannot move from Kolkata by leaving his running and settled business. If I am transferred from Kolkata I have to move alone and husband has to stay at Kolkata to continue his running business and to take care all other family responsibilities which will adversely affect the education and welfare of my children.

c) I am also a patient of gastritis (gall bladder operated) and Osteoarthritis and I am under close monitoring of Doctor. My parents are suffering from old aged ailment. (Prescription enclosed).

4. Sir, regarding the provision of posting of husband and wife at same station, I would like to submit that Para-8(e) of latest transfer policy quoted under reference (i) states that "husband and wife may be posted at the same station as per instruction /guidelines issued by the Govt. of India on the subject from time to time".

Regarding the same provision in DOPT OMs, I beg to submit that in last line of para-4 (viii) of DOPT OM dated 30 Sept 2009 (Ref-V copy enclosed) it is mentioned that **where only wife is Govt. servant** the concession provided in the policy would also be applicable to the Govt. servant specially till the children are **18 years** of age. The same concession was also provided in Para-3 of DOPT OM dated 12 Jun' 1997. (Ref-IV)

5. Sir, regarding the revision/ reform of the policy provision on concession for posting husband and wife at the same station for **ONLY THE WIFE GOVT SERVANT**, it is submitted that

- (i) Govt. had first formulated the policy vide DOPT OM dated 3/4/1986 (Ref-III) (Copy enclosed) wherein there is no clear cut provision of concession for **ONLY THE WIFE IS A GOVT. SERVANT**.
- (ii) Further, during course of time, Govt. had widened the scope of the policy, for more representation of women employee in Govt. organization, a provision was made for concession where only the wife is a Govt Servant vide Para-3 of DOPT OM dated 12 Jun' 1997 (Ref-IV OM)
- (iii) After VI th CPC, the policy has been further reviewed by Govt. of India and the same concession has been continued vide Para-4(VIII) of DOPT OM dated 30 Sept' 2009 (Ref-V).

From the above this is my humble submission that the concession provided in DOPT OM is equally applicable for **only wife is Govt. employee** and applied for concession like Men/Gents Govt. employee applied for concession.

Sir, as a woman employee and as the age of my both children is less than the 18 years, I may be eligible for exemption from rotational transfer -2018 as per RTS policy (Ref-(ii) and DOPT OMs under reference (iv & v).

6. Besides, Sir as I am in promotion zone and as per para- -10(b) I may also be exempted from RTS-2018 .

7. Sir, as a dedicated and devoted woman employee, I once again humbly request you to kindly consider my case sympathetically and I may please be exempted from rotation transfer-2018 as per Para-8(e) latest RTS policy and DOPT OMs as mentioned above considering the Para "**only wife is Govt. employee**" and also as per Para-10(b) of RTS policy so that I can lead normal family life along with my family at Kolkata and above all I can take care my children (aged 11 & 7 years) education and welfare.

8. I shall be ever grateful to you for kind consideration of my case to give the utmost importance to enhancement of woman's empowerment in every walk of life to enable me a normal life to discharge the responsibilities as a wife/ mother in one hand and on the other hand effective employee which is main aim of Govt. Of India for more representation of women employee in Govt. service.

Thanking you,

Dated : 27 April' 2018

yours faithfully,

Sova Rajak
(SOVA RAJAK)
JTO(S), DQA(M&E)

The relevant provision reads as under:

F.No.28034/9/2009-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block,
New Delhi,

Dated the 30th September, 2009.

OFFICE MEMORANDUM

Subject : Posting of husband and wife at the same station.

In view of the utmost importance attached to the enhancement of women's status in all walks of life and to enable them to lead a normal family life as also to ensure the education and welfare of the children, guidelines were issued by DOP&T in O.M No. 28034/7/86-Estt.(A) dated 3.4.86 and No.28034/2/97-Estt.(A) dated 12.6.97 for posting of husband and wife who are in Government service, at the same station. Department had on 23.8.2004 issued instructions to all Mins./Deptts. to follow the above guidelines in letter and spirit.

2. In the context of the need to make concerted efforts to increase representation of women in Central Government jobs, these guidelines have been reviewed to see whether the instructions could be made mandatory. It has been decided that when both spouses are in same Central Service or working in same Deptt. and if posts are available, they may mandatorily be posted at the same station. It is also necessary to make the provisions at Paras 3(iv) and (vi) of the O.M. dated 3.4.86 stronger as it is not always necessary that the service to which the spouse with longer service belongs has adequate number of posts and posting to the nearest station by either of the Department may become necessary.

3. On the basis of the 6th CPC Report, Govt. servants have already been allowed the facility of Child Care Leave which is admissible till the children attain 18 years of age. On similar lines, provisions of O.M. dated 12.6.97 have been amended.

4. The consolidated guidelines will now be as follows:-

xxx

xxx

xxx

xxx

- (viii) The husband & wife, if working in the same Department and if the required level of post is available, should invariably be posted together in order to enable them to lead a normal family life and look after the welfare of their children especially till the children attain 18 years of age. This will not apply on appointment under the central Staffing Scheme. Where only wife is Govt. servant, the above concessions would be applicable to the Govt. servant.

We note that the representation was preferred by the applicant prior to issuance of transfer order but her prayer has been turned down with a cryptic and non-speaking order, on 18.07.2019, as detailed supra, after the transfers have been effected.

7. The applicant, after her transfer, has not preferred any representation. However, in view of the fact that the impugned order dated 18.07.2019 does not spell out the reason for rejection of her prayer, we direct the authorities to reconsider her prayer, in the light of the transfer guidelines of 2009 enumerated supra and issue a detailed and reasoned order as to why the applicant would not be entitled to a relief.

8. *Appropriate consideration and speaking order shall be issued by the competent authority, within 8 weeks from the communication of this order.*

9. Till such time, applicant, if still on leave, shall not be compelled to join the place of transfer.

10. O.A. accordingly stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member(J)

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