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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 180/00142 of 2019

Wednesday, this the 27th day of November, 2019

CORAM

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

Anumol P.S.,
Aged 29 years,
W/o Jobin Joy,
Working as Senior Auditor,
Office of the Accountant General (G&SSA),
Thiruvananthapuram-695 001,
residing at Menachery House,
Edathala P.O., Pukkattupady,
Kochi -683 561. Applicant

(By Advocate M/s.Deepthi P & Bindu G)

Versus

1. The Comptroller & Auditor General of India,
10, Bahadur Shah, Zafar Marg,
New Delhi – 110 001.

2. The Accountant General (G&SSA),
Office of the Accountant General (G&SSA),
Kerala, Thiruvananthapuram – 695 001. Respondents

(By Advocate, Mr.K.I.Mayankutty Mather for Respondents)

This application having been heard on 19th November, 2019, the
Tribunal on 27th November, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.142/2019 is filed by Smt.Anumol P.S., Senior Auditor, Office of the Accountant General (G&SSA), Thiruvananthapuram, against the order declining to transfer her to Kochi Branch. The reliefs sought in the OA are as follow:

- (i)** Quash Annexure A7 at it violates fundamental rights of the applicant.
- (ii)** Direct the 2nd respondent to consider Annexure A6 and transfer the applicant to Branch Office Kochi in the existing vacancy.
- (iii)** Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and
- (iv)** Grant the cost of this Original Application.

2. The applicant is a trained Badminton player, who has achieved several distinctions at sports events in Kerala as well as outside. She was appointed as an Auditor vide order dated 01.02.2011 under Sports Quota (Annexure A1). She joined the Office of the Accountant General (G&SSA), Thiruvananthapuram, Respondent-2. On passing the departmental examination, she was promoted as Senior Auditor. The applicant applied for transfer to Kochi, being her native place and by order dated 02.01.2013 she was posted to Kochi office under the respondents (Annexure A2). The only condition put was that, having been recruited under Sports Quota, she shall continue to participate in sports events representing AG (G&SSA), Kerala in

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Badminton.

3. The applicant states that she is now living in Kochi along with her husband, 4 years old daughter and in-laws. While so, she was issued with a transfer order dated 21.08.2018 transferring her from Kochi to Thiruvananthapuram (Annexure A5). She joined Thiruvananthapuram in compliance with the order and had submitted a representation dated 11.12.2018 before the 2nd Respondent, seeking a transfer back to Kochi stating personal reasons such as her husband working in CPSU at Kochi, her 4 years old daughter being a student of LKG and the need to look after her aged parents (Annexure A6). The 2nd Respondent turned down the request by Note dated 16.01.2019 (Annexure A7) stating that officials recruited under Sports Quota have to be posted at main office, Thiruvananthapuram for an initial period of ten years.

4. The applicant submits that DOPT OM dated 30.09.2009 contains the guidelines to be followed in posting of husband and wife at same station. The said OM had been endorsed by the first respondent vide letter dated 11.02.2015 (Annexure A9). She maintains that classification of sports persons separately from other categories violates fundamental rights of candidates, such as herself. On the personal front, she submits that she has now conceived and travelling every week to her home town has become difficult and such travel is against the advice of her doctor.

5. The respondents have filed a reply statement disputing the contentions raised in the OA. They submit that Annexure A1 is the standard appointment order issued for the appointment of Auditors and there is no separate appointment order for Sports Quota recruits. Annexure A5 transfer order issued by the Administration is in public interest. The officials recruited under Sports Quota are required to represent the respondent department in various tournaments, for which regular training with team members of the same discipline, is absolutely essential. It was in line with this intent that a new sports policy for IA&AD had been framed and notified in 2016 to promote sports and sports persons and also to improve participation and performance in national and international tournaments. Accordingly, the competent authority of the respondent department decided to post all Sports Quota recruits in the main office at Thiruvananthapuram for an initial period of ten years and all Sports Quota recruits who are posted at the Branch offices were transferred to the main office in pursuance of this policy. By way of illustration, the respondents pointed out the case of Mr.Bennet Antony, who is also from the discipline of Badminton. He was posted at Branch office, Thrissur and was then moved to Thiruvananthapuram in January, 2018, as per the policy referred to. The respondents submits that out of her eight years of service, the applicant had been serving in the Branch Office, Kochi for 5 years and 6 months. The respondents maintain that transfer is an incidence of service and transfer

and posting is the discretion of the authorities concerned.

7. A rejoinder has been filed by the applicant wherein it is submitted that during pendency of this OA, the 2nd respondent harassed the applicant by issuing memos. She submits that the respondents themselves have admitted that there is no differential classification between persons appointed under Sports Quota and others. The respondents have violated the direction of Government of India relating to posting of husband and wife at same station (Annexure A8). Even while working at Kochi, the applicant had represented her department in various tournaments by undergoing training/coaching from her own sources. She submits that the tenure of initial ten years to be posted at main office is highly arbitrary and against human rights.

8. The respondents have filed additional reply statement to the rejoinder filed by the applicant, further disputing the contentions raised by the applicant. It is submitted that, right from the selection process, Sports Quota appointment differs from other appointments. The respondents strongly rebuts the allegations of harassment raised by the applicant in the rejoinder. On one occasion, she had left headquarters without prior permission and had been asked to explain her conduct. This does not constitute harassment as alleged by the applicant. A conscious decision had been taken to collect Sports Quota recruits at Headquarters so that

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optimal arrangements can be made for their training and practice. This is necessary for team formation and distributing them to different Branch office would not be a viable proposition.

9. Heard Ms.Deepthi, learned Counsel for the applicant and Mr.Vineeth Komalachandran representing Mr. K.I.Mayankutty Mather, learned Standing Counsel for Respondents. All pleadings and documentary evidence are examined.

10. The applicant is a sports recruitee, who has about 8 years of service under the respondent department. She belongs to Kochi and had been admittedly, posted there for 5 years and 6 months out of her total service. In line with the policy decision, she was asked to report at the main office at Thiruvananthapuram. After joining there, she has filed a representation seeking a transfer back to Kochi, which was declined. It is at this stage she has approached this Tribunal.

11. After examining the facts of the case, despite the personal difficulties that she has referred to in the OA, we cannot conclude that the respondents have acted arbitrarily. Several persons are recruited under Sports Quota and if the respondent department wants to utilise their services at a particular station so that their sports skill could be appropriately developed, they cannot be found fault with. In any case, she has already been at Kochi

for more than 50% of her service career and the respondent department had been considerate to that extent. But once a policy has been adopted, it would not be appropriate to insist upon the respondent department to make an exception in her case. DOPT OM regarding posting of husband and wife at the same station is in the nature of a guideline and cannot be interpreted as a cast iron directive. We see no merit in the contentions raised in the OA and same is dismissed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00142/2019

- 1.** Annexure A1 - True copy of Order No.Au/Admn.III/5-I/Vol.III dated 01/02/2011 issued by the 2nd respondent.
- 2.** Annexure A2 - True copy of the transfer order No.Au/Admn.IV/7-1/Vol.13 dated 02/01/2013 issued by the 2nd respondent
- 3.** Annexure A3 - True copy of the Identity Card bearing Card No.W-635 of Applicant's husband.
- 4.** Annexure A4 - True copy of School identity card of Applicant's daughter.
- 5.** Annexure A5 - True copy of the Order No.Au/Admn.V/7-2/2018-19 dated 21/08/2018 (Sectional Order No.188)
- 6.** Annexure A6 - True copy of the representation dated 11/12/2018 submitted by the applicant before the 2nd respondent.
- 7.** Annexure A7 - True copy of the Note No.Au/Admn.V/Misc/2018-19 dated 16/01/2019.
- 8.** Annexure A8 - True copy of the Office Memorandum issued by the DOPT in F.No.28034/9 2009 -Estt(A) dated 30/09/2009.
- 9.** Annexure A9 - True copy of the order No.174-Staff (App-II) 64-2014 Vol.IV dated 11/2/2015.
- 10.** Annexure A10 – True copy of the discharge summary issued by the Rajagiri Hospital on 11/11/2017.
