

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00321/2019

Date of Decision: 01.10.2019

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Shri Parimol Shil
Son of Sri Protap Ch. Shil
Field Assistant (Fire Fighter), SSB
P.O. Salonibari, PIN – 784104
District: Sonitpur, Assam

.....Applicant

By Advocate: Sri G. Rahul
Sri D.M. Nath

-AND-

1. Union of India
Represented by its Secretary
Ministry of Home Affairs
Govt. of India, North Block
New Delhi – 110001.
2. The Directorate General of Sashastra Seema Bal
East Block – V, R. K. Puram
New Delhi – 110066.
3. The inspector General (Pers)
Sashstra Seema Bal, East Block – V
R.K. Puram, New Delhi – 110066.
4. The Inspector General, SSB
Frontier head Quarters, Guwahati.
5. The Deputy Inspector General
CTC, SSB, Salonibari, Sonitpur, Assam.

.....Respondents

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

This O.A. has been preferred by the applicant under Section 19 of Administrative Tribunal Act, 1985 seeking the following reliefs:

- 8.a) The impugned transfer Order No. 6/SSB/Pers. III/Tfr (Non – Comb)/ 2019 (18)/ 1909-19 dated 15.07.2019 whereby the applicant has been transferred from CSD & W, Salonibari to CSD & W Bhopal issued by the Director General, SSB may be set aside and quashed.
- b) The impugned Office Memorandum dated 13.09.2019 by which the Respondents summarily rejected the representation of the applicant dated 19.07.2019 may be set aside and quashed.
- c) The respondents may be directed to reconsider the request made by the applicant for his retention in the present place of posting at CSD & W Salonibari till his daughter's academic session for the year 2019-2020 is over for the ends of justice.
- d) Any other reliefs deemed fit and proper in the facts of the case.

2. Sri G. Rahul, learned counsel appearing on behalf of the applicant submitted that the applicant is serving as Field Assistant (Fire Fighter) under the Sashastra Seema Bal which is a Boarder guarding Force under Ministry of Home Affairs, Government of India and presently he is posted at CSD & W, Salonibari. Learned counsel for the applicant has drawn our attention to Annexure – B i.e. the circular dated 09.05.2019 regarding Transfer Guideline of the SSB Personnel and submitted that annual transfer shall be given effect to

by 30th April of every year. However, vide Transfer Order No. 6/SSB/Pers. III/Tfr (Non – Comb)/ 2019 (18)/ 1909-19 dated 15.07.2019 the respondents authority have most illegally and arbitrarily transferred the applicant from CSD & W, Salonibari to CSD & W Bhopal, Madhya Pradesh.

3. Learned counsel for the applicant further submitted that as the daughter of the applicant is presently studying in 4th standard in Kendriya Vidyalaya No. 2, A.F.S. Tezpur and is in the midterm of her academic session, the applicant submitted a representation dated 19.07.2019 before the Director General SSB, New Delhi i.e. respondent No. 2 with a request to retain him in his present place of at CSD & W, Salonibari till the academic session of his daughter is over. However, the respondents have rejected his prayer without assigning any reason vide impugned Memorandum dated 19.09.2019. Learned counsel for the applicant has relied on a decision of this Tribunal dated 02.08.2013 in O.A. No. 235/2013 in support of his case.

4. We have heard the learned counsel for the applicant, perused O.A. It is noted that presently applicant's daughter is studying in Class IV in Kendriya Vidyalaya No. 2, A.F. S. Tezpur. According to the learned counsel for the applicant, the mid academic session of the applicant's daughter is going on and her

Annual Examination will be over by April and at this juncture, if the applicant is displaced, education of the ward will severely be affected. In the case of **Director of School Education, Madras & Ors. Vs. O. Karuppa Thevan, 1994 Supp (2) SCC 666**, the Hon'ble Apex Court has held that – "Transfer of an employee during mid-academic term is not proper unless exigencies of service are urgent for making such transfer.' The Transfer Guideline also envisaged that annual posting and transfer orders shall be issued by the Competent Authority by 31st January every year and must be implemented by 30th April every year.

5. In view of the above and the decision rendered by Hon'ble Apex Court in the case of **O. Karuppa Thevan (supra)**, the transfer of the applicant from CSD & W, Salonibari to CSD & W Bhopal, Madhya Pradesh is bad in law. It is the positive stand of the applicant that he has not yet been released from his present place of posting at CSD & W, Salonibari and he has not joined in his new place of posting as yet. Accordingly, we deem fit and proper to direct the respondent authority not to disturbed the applicant from his present place of posting at CSD & W, Salonibari, if he has not already been relieved, till the academic session of his daughter is over. Ordered accordingly.

6. With the above directions, O.A. stands disposed of accordingly at the admission stage. There will be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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