
(2019) 05 MAN CK 0013
In the Manipur High Court
Case No : Writ Petition (c) No. 91 Of 2019

Heirangkhongjam Ganita Devi

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 23-05-2019

Acts Referred:

Citation : (2019) 05 MAN CK 0013

Hon'ble Judges : Ramalingam Sudhakar, CJ;Kh. Nobin Singh, J

Bench : Division Bench

Advocate : Kh.Tarunkumar, S.Samarjit Singh

Final Decision : Disposed Off

Judgement

R.S., CJ

The petitioner challenges the order of the Central Administrative Tribunal dated 17.12.2018 and the order reads as follows:-

"17.12.2018

Mr. S.K. Deka, proxy counsel for Mr. T. Deori, learned counsel for the applicant and Mr. M. Mahanta, learned counsel for NVS are present.

It was submitted by proxy counsel that Mr. Deori is unable to appear before that Circuit Court of CAT, Guwahati Bench at Imphal.

Accordingly, proxy counsel prays for adjournment.

On the other hand, Mr. M. Mahanta, learned counsel appearing on behalf of the respondents submitted that transfer order in fact was issued as per choice of the applicant. Mr. Mahanta vide their written statement filed on 22.11.2018 had drawn our attention to the Annexure-R2 by where the applicant has given choice of school/place at (i) Chandel, Shillong and (ii) Churachandpur, Shillong. According to Mr. Mahanta, since the applicant has already given posting at Chandel, therefore it is surprising as to why the applicant approached this

Tribunal despite order has been passed in favour of the applicant by posting at her choice place of posting.

We have noted that the applicant has filed the instant O.A. for setting aside the transfer order dated 09.03.2018 by which the applicant has been sought to be transferred from Jawahar Navodaya Vidyalaya, Imphal, Manpur to Jawahar Navodaya Vidyalaya, Chandel, Manipur as Catering Assistant under hard/very hard category.

Since the applicant has already been given her choice at Chandel, the matter does not have any merit. Accordingly, O.A. stands dismissed.

No order as to costs."

[2] From the above, it is apparent that the Tribunal dismissed the case holding that the transfer was effected based on a transfer drive of 2017-18 and the participants were asked to give their consent and the petitioner in the present case submitted the consent form which was filed by the respondent in the reply affidavit as Annexure-R/2. The same finds at page No.61 which reads as follows:-

"NAVODAYA VIDYALAYA SAMITI

TRANSFER DRIVE 2017-18

Ministry of Human Resource Development,

Deptt. of school Education & Literacy

Government of India

TRANSFER DETAILS

DO YOU WISH TO PARTICIPATE TRANSFER DRIVE 2017-18? : YES

DISABLED CATEGORY (IF APPLICABLE) : NO

WHO IS DISABLED ?

DISABILITY : DISABILITY % :

SUFFERINGS FROM DISEASES IF ANY : NO

WHO IS SUFFERING: DISEASE :.....

IF HAVING WORKING SPOUSE? NO

SPOUSE WORKING IN: WORKING IN SAME DISTRICT? NO

WORKING IN SAME IN JNV? NO

DATE OF BIRTH OF ELDEST CHILD:

DATE OF BIRTH OF 2nd ELDEST CHILD:

SPOUSE NAME : TYPE OF POST:

SPOUSE DESIGNATION : SPOUSE EMAIL:

SPOUSE SCHOOL/PLACE:

WILLINGNESS TO TRANSFER AT VERY HARD

OR HARD STATION NO

CHOICE OF SCHOOL/ PLACE ORDER SCHOOL/PLACE

TYPE

1 CHANDEL, SHILLONG

DEEMED

2 CHURACHANDPUR, SHILLONG

DEEMED

DISCLOSURE : I HERE BY DECLARE THAT ABOVE MENTIONED INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND I UNDERSTAND THAT ANY MISLEADING INFORMATION MAY LEAD TO REJECTION OF APPLICATION AND PENALTY.

Sd/-

(Signature of Applicant)

Verification by Principal/Regional office Above particular are verified and found correct.

Sd/-

(Signature of Principal of the JNV)"

[3] The perusal of the application form makes it clear that the petitioner has signed the same and the counsel does not dispute it. In the column, it is stated that the petitioner is willing to participate in the transfer and does not fall under disability category. She state that she was not suffering from any other diseases which qualify for retention at the present place of work. On the contrary, the petitioner has given her choice of place for transfer as follows:- Chandel, Shillong and Churachandpur. On the basis of her written request, she was transferred to Chandel district school. Therefore, the Tribunal was justified in dismissing the petition because the transfer was effected by consent and on the choice of the petitioner.

[4] Shri Tarunkumar, learned counsel for the petitioner now pleads that subsequent to the order of the Tribunal, the petitioner suffers from various ailments and there are medical reports to support the same. She seeks review of the transfer order. The documents now relied upon are annexed to the present writ petition now. These documents, admittedly, were not part of the claim of the petitioner at the time of the transfer drive, 2017-18. By the petitioner's own

admission, there was no disability or diseases at the time of application for transfer was submitted. Hence, subsequent events ought to be raised by the petitioner before the authorities and the same can be considered on its own merits and proceed according to law.

[5] We find no error in the order of the Tribunal under challenge because the transfer was effected consequent to a transfer drive of all eligible persons in the zone of consideration. The transfer was by an application asking the staff to indicate the places of their choice.

[6] In this case, the petitioner has chosen few places and as per her request, Chandel was allotted. Petitioner/appellant was transferred to her chosen place. The petitioner, therefore, cannot sustain a grievance on such transfer order. However, liberty is given to submit subsequent events i.e. matters relating to her present health condition which can be considered by the authorities on its own merit and in accordance with law.

[7] The writ petition disposed off.