(2005) 07 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No''s. 22790 and 22791 of 2005 and WPMP No''s. 24846 to 24848 of 2005

Latha Sriram and D. Christopher Chelladurai — APPELLANT

Vs

Controller General of Defence Accounts, Union of India (UOI), Controller of Defence Accounts and Central Administrative Tribunal — RESPONDENT

Date of Decision : 18-07-2005

Acts Referred:

Citation : (2005) 07 MAD CK 0040

Hon'ble Judges : P. Sathasivam, J;AR. Ramalingam, J

Bench : Division Bench

Advocate : S. Mahimai Raj, for the Appellant;

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Aggrieved by the order of the Central Administrative Tribunal, Chennai dated 24.06.2005 made in O.A.No.493 of

2005, confirming the order of the Controller General of Defence Accounts, New Delhi dated 10.06 .2005, one Latha Sriram has filed

WP.No.22790 of 2005. Aggrieved by the order passed by the very same Tribunal in other O.A.No.416 of 200 5 dated 28.06.2005, confirming

the order of the same Department Head dated 16.05.2005, one D. Christopher Chelladurai has filed W.P. No.22791 of 2005.

2. Since the issue raised in both these writ petitions is one and the same / identical, they are being disposed of by the following common order.

3. Heard the learned counsel for the petitioners.

4. In the light of the order to be passed hereunder and in view of the issue raised, we are of the view that it is unnecessary to refer all the factual

details as stated in the affidavit. In so far as the petitioner in WP.No.22790 of 2005 is concerned, it is the claim of the petitioner that initially she

joined service as a Clerk (LDC) in the Armed Forces Head Quarters service under the Ministry of Defence on 03.02.1992. She was posted in the

Armed Forces Head Quarters at New Delhi. It is her claim that she was married on 16.07.1995 and as her husband hails from Tamil Nadu, she

requested for transfer to Tamil Nadu. On coming to know of the existence of vacancies in the Office of the 2nd respondent, Controller of Defence

Accounts at Chennai, she applied for transfer. She submitted her technical resignation of the above post and thereafter, the third respondent,

Controller of Defence Accounts at Chennai passed an order dated 22.08.1997, appointing her as Temporary Clerk in the Defence Accounts

Department with effect from 21.08.1997 F.N., on condition that she would be treated as a ""Fresh Entrant"" on transfer basis. She again underwent

the probation for a period of two years. Thereafter, she was confirmed with effect from 21.08.1999 and was promoted to the grade of Auditor

with effect from 10.08.2000, and again promoted her as Senior Auditor with effect from 01.04.2004.

5. While serving as Senior Auditor, she was served with an order dated 23.12.2004 by the 2nd respondent, whereby she was transferred from the

Chennai office to the Office of the Controller of Defence Accounts at New Delhi. Against the said order of transfer, she filed O. A.No.39 of 2005

before the Central Administrative Tribunal (Madras Bench). By order dated 17.03.2005, the Tribunal directed the second respondent to consider

her representation dated 30.12.2004 along with the transfer policy guide lines and issue an appropriate and considered order. Pursuant to the said

direction, now, the first respondent passed an order dated 10.06.2005, rejecting her representation dated 30 .12.2004.. The said order was

questioned in O.A.No.493 of 2005 before the Central Administrative Tribunal (Madras Bench). By the impugned order dated 24.06.2005, the

Tribunal, dismissed the said O.A., and confirmed the order of the first respondent. Hence, the present writ petition. Since the petitioner in the

second writ petition, viz., WP.No.22791 of 2005, stands in the same footing, in view of the fact that he also challenges the order of transfer of the

very same Department, we are of the view that there is no need to refer the factual details as stated in his affidavit.

6. After taking us through the transfer guidelines, service conditions of both the petitioners, orders passed by the first respondent as well as the

impugned orders of the Central Administrative Tribunal (Madras Bench), the learned counsel appearing for the petitioners contends that the orders

of transfer are contrary to the guidelines issued by the Department. In so far as the petitioner in WP.No.22790 of 2 005 is concerned, the learned

counsel submitted that the first respondent has not complied with the earlier direction of the Tribunal, issued in OA.No.39 of 2005. He also

submitted the fact that the petitioner''s mother-in-law was not doing well and the fact that her husband is doing business at Chennai have not been

considered by the first respondent. In so far as the petitioner in WP.No.22791 of 2005 is concerned, it is the claim of the learned counsel for the

petitioner that even after expiry of three years, the choice is with the person concerned and in spite of the fact that he mentioned three places of his

choice, they were not been considered by the authority.

7. We have perused the relevant materials and considered the contentions raised by the learned counsel for the petitioners. 8. It is true that while

disposing of OA.No.39 of 2005 on 17.03.20 05, the Central Administrative Tribunal (Madras Bench), has directed the first respondent to

consider the representation of the petitioner in WP.No.22790 of 2005 and pass orders based on the transfer policy guide lines (Annexure A.7

therein). By pointing out the above direction, the learned counsel appearing for the petitioner vehemently contended that the Controller General of

Defence Accounts, Ministry of Defence, Government of India ought to have considered her claim with reference to transfer policy guidelines. A

perusal of the order of the said authority dated 10.06.2005, which finds a place at pages 39 to 41 of the typed set of papers reveals that the said

authority considered her claim. It also shows that in view of the administrative exigency and shortage of staff in other Centres, the petitioner in

WP.No.22790 of 2005 was transferred to New Delhi. In such a circumstance, the claim that the authority / first respondent has not considered her

claim is liable to be rejected. Even otherwise, it is seen from the impugned order of the Central Administrative Tribunal that when the transfer is due

to administrative grounds, the transfer policy guidelines contained in paragraphs 368 to 377 will not apply to the same. This is clear from paragraph

378 of the Office Manual part I, Volume I. The said clause reads as under.

378. (i) The above mentioned guidelines will not apply to transfers on administrative grounds, which may be effected at the discretion of the

administration.

(ii) Those Principal Controller / Controllers who have an all Indian Jurisdiction will endeavour, to have a system of zonal transfers for rotation of

staff where it is necessary, according to the principles cited above, so that the staff of certain regions can be rotated within these zones, and they

can serve at reasonable distances from their home states.

In view of the specific provision, viz., paragraph 378 of the Office Manual, as rightly concluded by the Tribunal, if the transfer is on administrative

grounds, it cannot be claimed that the guidelines contained in paragraphs 368 to 377 are to be strictly complied with. After perusing those clauses

and the order of transfer, we are in agreement with the conclusion arrived at by the Tribunal and there is no valid reason to interfere with the

impugned order. For the same reasons, the claim of the petitioner in WP.No.22791 of 2005 is also liable to be rejected. Here again, we have

perused the order of the first respondent as well as the ultimate order which is impugned in this writ petition. On going through the same and for the

reasons stated above, we are in agreement with the conclusion arrived at by the Tribunal. In the light of our discussion, we do not find any valid

ground for interference. Accordingly, both the writ petitions fail and the same are dismissed. No costs. Consequently, connected WPMPs., are

also dismissed.