

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.4602 OF 2019

All India DGQA

Engineer's Association

Branch CQA(A) Khadki, Pune Ors. : Petitioners

versus

Union of India

Through the Secretary

Ministry of Defence and ors. : Respondents.

**Mr. Mihir Desai, Senior Advocate I/by Mr. Vicky A Nagrani for the
Petitioners.**

**Mrs. Neeta V Masurkar a/w Ms. Nieyaati V Masurkar for the Respondent
Nos.1 to 6.**

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ**

DATE : 21st February 2019

P.C.

1 The Petitioners challenge the order passed by the learned Central Administrative Tribunal, Mumbai dated 11/01/2019 thereby dismissing the Original Application filed by the Applicants/Petitioners challenging the transfer policy of the Respondents formulated in the year 2016.

2 Mr. Mihir Desai, the learned Senior counsel appearing on behalf of the Petitioners submits that there was no occasion for the Respondents to have change the 2011 policy in 2016. He further submits that the change in the policy is contrary to the recommendations of the committee appointed by the Respondents. He further submits that the provision in the changed policy

which restricts the compassionate transfer is very harsh inasmuch as if the employee suffers genuine problems more than one occasion he would not be considered for compassionate transfer.

3 Perusal of the impugned order passed by the Bench of Central Administrative Tribunal, Mumbai would reveal that the challenge is negated basically on the ground of the reasonings which are given in the judgment in the case of Mrs. Alka Chauhan and others vs. Union of India and others in Original Application No.2791 of 2017 decided by the CAT Principal Bench, New Delhi on 17/12/2018. We have also perused the judgment of Bench at Principal Seat and the reasoning given therein.

4 The elaborate reasons are given by the learned Tribunal for rejecting the application. It has been found that the issue with regard to the transfer policy would come in the way of policy matter and the scope of interference in the policy matter is very limited.

5 Similar challenge was made before the Division Bench of Karnataka High Court in Writ Petitions No.48428-48431 of 2017(S-CAT) which was decided by the judgment 08/02/2018. The Karnataka High Court, in the said case, had also found that there was no reason to interfere with the policy of the Respondents..

6 In so far as the argument with regard to the hardship is concerned, we find no merit in the said contention. It will be relevant to refer to clause 13 of the said policy which reads thus :-

“13 Relaxation

Any relaxation of the provisions or contingencies not covered in the above mentioned policy guidelines will be considered on its merit with the approval of the authority empowered to approve posting/transfer.

The policy of posting/transfer of Group B officials issued vide Min of Defence Order No.96995/RTP/DGQA/Admn-7B dated 20th May 2011 stands superseded herewith.”

Perusal of clause 13 would reveal that relaxation of the provisions or contingencies, is not covered under the policy. As such, in a genuine case of hardship the employees can always request the appropriate authority for relaxation of the condition and the transfer on genuine compassionate ground. We are sure that no authority would refuse to consider the genuine case on humanitarian ground.

7 In that view of the matter, no case for interference is made out. The Writ Petition is dismissed.

[N. J. JAMADAR, J]

[B. R. GAVAI, J]