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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 26.07.2024+ W.P.(C) 8094/2024 & CM APPL.33319/2024

MRS DEEPTI BHARGAVA

.....Petitioner

Through: Mrs. Rashmi Chopra, Ms. Fiza Chopra, Mr. Puneet Rathi and Mr. Parikshit Singh Bhati, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Avshreya Pratap Singh Rudy, Advocate (SPC), Mr. Anubhav Tyagi, Advocate (GP), Mr. Farman Ali, Ms. Usha Jamnal, Advocates.

CORAM:**HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T (O R A L)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking the following prayer:

"a) the writ of certiorari to quash and set aside the impugned order dated 07.05.2024 in OA No.748/2024 titled Deepti Bhargava Vs. UOI & Others passed by the Central Administrative Tribunal, Principal Bench, New Delhi;

b) the writ of certiorari to quash and set aside the impugned order dated 22.11.2023 to the limited extent that the Petitioner has been transferred to CFSL, Bhopal;

c) to quash and set aside the relieving order dated 22.12.2023 and order dated 13.02.2024 and issue directions to the Respondents to treat the Petitioner as SSO-I(Renamed by Respondent No.2 as Assistant Director & Scientist-'C') pursuant to the in-situ promotion under FCS in the strength of CFSL Delhi and grant all consequential benefits including arrears of the pay & allowances and service benefits admissible to her."



2. During the course of arguments, learned counsel for the petitioner has relied upon paragraph 2 of the Office Memorandum (OM) dated 12.06.1997 issued by the Department of Personnel & Training (DoPT) which is reproduced as under:

“2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down No.28034/7/36-Estt-(A) dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and should ensure that posting invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist the organisation at the same station and if TIO administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a government servant, the concession elaborated in para 2 of this O.M. would be admissible to the government servant.

2. On the other hand, learned counsel for the respondents has relied upon sub-paragraph (viii) of paragraph 4 of the Office Memorandum (OM) dated 30.09.2009 issued by the DoPT which is reproduced as under:

“4. (viii) The husband & wife, if working in the same Department and if the required level of the post is available, should invariably be posted together in order to enable them to lead a normal family life and look after the welfare of their children especially till the children attain 18 years of age. This will not apply on appointment under the Central Staffing Scheme. Where only wife is a Govt. servant, the above concessions would be applicable to the Govt. servant.”

3. Perusal of OM dated 12.06.1997 reveals that it is clearly mentioned in paragraph of 2 of the said OM that all Ministries/Departments should strictly adhere to the guidelines laid down, No.28034/7/36-Estt-(A) dated 03.04.1986, while deciding on the requests for posting of husband and wife at the same station and should ensure that postings are invariably done,



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especially till their children attain the age of 10 years, if posts at the appropriate level exist in the organisation at the same station and if TIO administrative problems are expected to result as a consequence.

4. Further, perusal of sub-paragraph (viii) of paragraph 4 of OM dated 30.09.2009 clearly reveals that if the husband and wife are working in the same Department and if the required level of the post is available, they should invariably be posted together in order to enable them to lead a normal family life and look after the welfare of their children especially till their children attain the age of 18 years. This will not apply on appointment under the Central Staffing Scheme. Where only wife is a Government servant, the above concessions would be applicable to the Government servant.

5. During pendency of the present petition, the respondents passed the order dated 25.07.2024 whereby it is stated as under:

***“No. DFSS/7/2/2024/1867
Directorate of Forensic Science Services
Ministry of Home Affairs
Government of India***

***Block No. 9, 8th Floor, CGO Complex
Lodhi Road, New Delhi-110003
Dated: 25/07/2024***

To

MS. Avshreya Pratap Singh Rudy

Advocate

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New Delhi – 110024,*

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***Sub:- WP (C) No.8094/2024 filed in the matter of Mrs. Deepti
Bhargava Vrs. UOI & Ors- Reg.***

*“Apropos your email dated 25.07.2024 on the captioned subject.
As per the observation of the Hon’ble High Court during the
hearing today; the continuation posting of Mrs Deepti*

Signature Not Verified

Digitally Signed
By: RAHUL YADAV
Signing Date: 30.07.2024
17:30:01



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Bhargava, Assistant Director & Scientist at CFSL, Delhi has been considered by the Chief Forensic Scientist/HOD, DFSS. It has been decided that Mrs Deepti Bhargava, Assistant Director & Scientist, CFSL, Bhopal may be attached at CFSL, Delhi, will be reviewed by the competent authority for further extension please. This decision of the DFSS may be brought into the kind notice of Hon'ble High Court, New Delhi in the tomorrow hearing please.

2. This issues with the approval of Chief Forensic Scientist, DFSS.

Yours faithfully,

**(Dr. P.V. Jiju
Deputy Director (FS))”**

6. On perusal of the said order dated 25.07.2024, it is stated by counsel for the respondents, on instructions, that after completion of one year of petitioner's attachment at CFSL, Delhi, the same will be reviewed in terms of OM dated 12.06.1997 and OM dated 30.09.2009 as mentioned above.

7. Further, it is not disputed that the petitioner has a 03 years old son.

8. In view of the above, the present petition as well as the pending application stand disposed of. Accordingly, order dated 07.05.2024 passed by the learned Central Administrative Tribunal is set aside.

9. It is made clear that the petitioner is now placed at Delhi and therefore, her service conditions shall not be disturbed for a period of at least one year as agreed in order dated 25.07.2024.

**SURESH KUMAR KAIT
JUDGE**

**GIRISH KATHPALIA
JUDGE**

JULY 26, 2024/ry