

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 14 of 1988
T.A. No.

DATE OF DECISION 1.9.1989

Shri Sumendra Bhushan Gupta Applicant (s)

Shri P.P. Khurana Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

Shri A.K. Sikri Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. MATHUR, VICE- CHAIRMAN.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Sumendra Bhushan Gupta, Operator (Refrigeration) in the Indian Institute of Petroleum, Dehradun, against his transfer from Dehradun to Baroda vide impugned order dated March 5/November 2, 1987 passed by the Administrative Officer, Indian Institute of Petroleum, Dehradun. In the O.A. the applicant had also raised some other issues like his promotion, arrears of increments, medical claim etc., but the learned counsel for the applicant pressed only for grant of relief against his transfer. The applicant's contention is that he was transferred due to his enmity with the Respondent No.3, Shri S. Singhal, Project Coordinator. The case was disposed of on 29.3.89 in the absence of the applicant as it was stated on behalf of the respondents that the application had become infructuous as a decision had been taken to close the unit at Baroda where the applicant was transferred and that he would be transferred to Dehradun where the applicant was posted earlier. Later, through a Misc. Petition No. 1612/89 the applicant moved for recalling

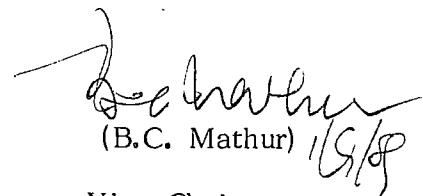
this case as he had received no orders of transfer posting him back to Dehradun. The applicant has also stated that he has not been posted in Dehradun as Operator (Refrigeration) although vide order dated 14.4.89 he has been posted back to Dehradun, it is in the Engineering Service Division as Operator (Refrigeration), for which a separate O.A. should be filed. It has been claimed by the Respondents that the posting of the applicant in Engineering Service Division is on administrative grounds and this should not be interfered with.

2. I have gone through the pleadings and heard the arguments of the learned counsel for the applicant as well as respondents. It is not clear under what circumstances the applicant was transferred from Dehradun to Baroda and brought back. It has been stated by the respondents that a decision was taken to close down the unit at Baroda and as such the applicant was brought back to Dehradun. Such a decision to close the Baroda Unit would have been taken after due consideration and in the circumstances, it is doubtful if the transfer of the applicant working as Operator (Refrigeration) at the Indian Institute of Petroleum at Dehradun to Baroda was really in public interest.

3. It is, of course, open to the respondents to utilise the service of their employees in any manner they like in the interest of work and the plea of the applicant that he has been shifted from one place to another under the Indian Institute of Petroleum cannot be accepted. If the respondents have posted him in the Engineering Service Division as Operator (Refrigeration) in place of Operator (Refrigeration) in the Amonia Refrigeration Cold Chamber Plant, this order cannot be interfered with and the applicant must work in any Division where the respondents post him. To that extent, his plea against his transfer from one Division to another Division in Dehradun cannot be accepted. However, since the original transfer orders from Dehradun to Baroda have already been cancelled, those orders having become infructuous, the respondents are directed to pay him his salary as if he had not been transferred from Dehradun to Baroda. In case the applicant has not joined his new Division at Dehradun the period when he received his transfer orders to the new unit on the basis of the orders issued on 14.4.89 and till he joined duty

ma

may be treated as leave due to him. For the balance period, when he was relieved from Dehradun to join at Baroda and until he was posted back at Dehradun, should be treated as duty and all emoluments due to him for that period should be paid to the applicant immediately. The application is disposed of accordingly. There will be no orders as to costs.


(B.C. Mathur) 16/5/8
Vice-Chair man