

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 586
T.A. No.

1986.

DATE OF DECISION 6.8.1986.

Shri Edkas Lakhra

Petitioner

Shri R.P.Oberoi,

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent

Advocate for the Respondent(s)

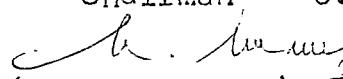
CORAM :

The Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes.
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to other Benches? No


(K. Madhava Reddy)
Chairman 6.8.86.


(Kaushal Kumar)
Member 6.8.86.

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH,
DELHI.

Regn. No. OA 586/1986.

Dated : August 6, 1986.

Shri Edkas Lakhra ...

Petitioner.

Versus

Union of India and others ... Respondents.

CORAM:

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For petitioner ... Shri R.P. Oberoi, Counsel.

(Judgment of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman).

The petitioner working as Assistant Commissioner of Income-tax at Madras has been transferred as Asstt. Appellate Commissioner, Kota. He calls in question this order of transfer (No. A.22012/1/86-II/Ad. VI dated 29.4.86) on the ground that it contravenes the declared transfer policy of the Respondent. In our view, the transfer policy does not vest an unrestricted right in any Officer of Group 'A' of the Income-tax Department to be necessarily posted at a particular place until he completes 8 years. Clause 7 of this circular enunciating this policy clearly reserves the right in the authorities to transfer any officer at any time to any part of the country at short notice on administrative grounds. It is not as if the petitioner has been suddenly transferred after he was posted at Madras. He has been at Madras now for the last 3 years. The transfer order does not contravene the Transfer policy.

2 The applicant has also sought to assil this order

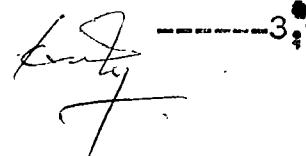
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on the ground of malafides on the part of Respondent No.3.

3. In paragraph 17 of the petition, it is alleged that respondent No.3 entertained prejudice against the applicant and has mentioned certain instances. It is stated that in February, 1981, the petitioner requested the Respondent No.3, the Chairman CBDT, the then Commissioner, Income-tax, Andhra Pradesh (II) to transfer him, on compassionate grounds, to a place like Nellore, Kakinada or Vishakapatnam. He was accordingly transferred to Nellore and he assumed charge at Nellore on 6.4.1981. But Shri Ananda Sarma who was to hand over charge evaded to hand over and ultimately the petitioner was transferred from Nellore on 19.5.81. Although he assumed charge at Nellore, that was not formalised. Refusal to do so by itself in our opinion does not amount to any malice. May be, Shri Ananda Sarma made a representation for his retention and there were genuine grounds warranting his retention at Nellore.

4. It is next alleged that disciplinary proceedings were initiated against the applicant in respect of a matter which was earlier closed by issue of a warning by the then Asstt. Commissioner, Vizag. That was some time in 1979. That can have relevance to the matter in issue for thereafter the petitioner was posted at Madras; a place where he now wants to be retained. The allegation that a dealing clerk was guilty of some mischief and the third respondent did not take any action against that clerk does not establish the malafides on the part of the 3rd Respondent towards the petitioner.

5. It is next stated that applicant was appointed Liaison Officer for Scheduled Castes/Tribes by the then

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(5)

Chief Commissioner of Income Tax (Admn.), Madras on 4.10.1983 and after the third respondent assumed charge he terminated this appointment on 9.1.84. The appointment of a Liaison Officer is a matter entirely under the discretion of the Commissioner. If the petitioner's appointment was terminated, the exercise of the discretion by the 3rd Respondent cannot be termed malafide. Except the bare allegation, no material is placed on record to show that out of malice the impugned order was made. The applicant claims that he had unearthed several cases of bogus refunds by the ITOs which led to the initiation of disciplinary proceedings against these corrupt officials. He alleges that that antagonised number of officers and they started a campaign of vilification and hatred against the petitioner. The petitioner states that these officers went on deputation to the Respondent and secured his transfer. As alleged by the petitioner, if a large number of officers in the area are actively working against him, administratively it may have been thought feasible to transfer the petitioner to ensure smooth functioning of the department in that area. It cannot be said that this transfer is necessarily the result of any malice on the part of Respondent No.3 towards the petitioner.

5. As already stated, the petitioner has been at Madras now for more than 3 years. This administrative order of transfer, therefore, does not call for interference by this Tribunal. This petition is accordingly dismissed.

K. Madhava Reddy
(K. Madhava Reddy)
Chairman 6.8.86.

K. Kaushal Kumar
(Kaushal Kumar)
Member 6.8.86.