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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 733/1986 198
T.A. No.

DATE OF DECISION 9th October, 1986.

Miss Ekta S. Vazirani **Petitioner**

Applicant in person **Advocate for the Petitioner(s)**

Versus

Union of India. **Respondent**

Shri N.S. Mehta, Advocate **Advocate for the Respondent(s)**

CORAM:

The Hon'ble Mr. Justice B.C. Gadgil, Vice-Chairman

The Hon'ble Mr. Birbal Nath, Member.

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 ?

O R D E R.

Per her application dated 19th September, 1986, filed
in the Principal Bench of the Central Administrative Tribunal, under
Section 19 of the Administrative Tribunals Act, 1985, the applicant,
Miss Ekta S. Vazirani, working as Junior Central Government Advocate
in the Litigation (High Court) Section, Ministry of Law and Justice,

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(Department of Legal Affairs), has sought quashing of the impugned transfer order dated 10th September, 1986 (Annexure 21), transferring her from New Delhi to the Branch Secretariat of the said Ministry at Calcutta.

2. This Order concerns admission of the application and also interim stay granted on 19th September, 1986, on which date the instant application was made.

3. In the application, she has alleged general harassment to her at the hands of the various functionaries of the Law Ministry from the day she was appointed, communication of adverse entries, unauthorised withholding of increments as well as appreciation of her work. She has alleged harassment in various forms intended to victimise the applicant. The respondent in the counter has denied the allegations made and said that in the year 1983, one post of Superintendent (Legal) was converted into the post of Junior Central Government Advocate and the applicant was brought to Delhi to streamline the litigation work in the High Court of Delhi. Denying the allegations of harassment, it has been averred that she has not been unduly treated in the matter of performance of her duties, leave or in connection with the recording of confidential reports or in any other manner in Delhi.

4. At the bar, the applicant argued her own case and repeated allegations of harassment and general malafides. She invited our attention to the policy contained in Government of India, Ministry of Home Affairs' O.M. No. 75/55-Estt. (A) dated 24.3.1955, which reads as follows:-

"Normally, the Government policy is not to disturb the low paid employees by transferring them out of their home station, (except on promotion) and if such a Government employee has been transferred out of home station either on promotion or in the exigency of public service, every endeavour should be made by the Government to transfer him back to the home station as/when such occasion arises. In a welfare State a balance has to be struck between the public interests and the welfare of the individual concerned. The Government of India have also accepted the position that a transfer to a distant place involves hardships not only of the

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officer concerned, but also of the dependents. This may well be a serious hardship, especially to the low-paid employee."

The applicant alleged that as she is a low-paid Government servant, she is being harassed. Learned Counsel for the respondent denied malafides or intention to punish the applicant. He maintained that the transfer had been made in the exigencies of service and prayed for the vacation of the stay order granted on 19th September, 1986. He invited our attention to the Supreme Court judgment in B. Varadha Rao Vs. State of Karnataka and others wherein, it has been held that the transfer was an incident of service, and the following dictum in E.P. Royappa Vs. State of Tamil Nadu and others (1974) 2 SCR 348:-

"It is an accepted principle that in public service transfer is an incident of service. It is also an implied condition of service and appointing authority has a wide discretion in the matter. The Government is the best judge to decide how to distribute and utilise the services of its employees. However, this power must be exercised honestly, bona fide and reasonably. It should be exercised in public interest."

The ~~Principal Bench~~² of the Tribunal has also been deciding applications on the issue of transfers on the basis of above dictum. *(K.K. Jindal vs. Gen. Manager NR & Sudhis Parashad vs. UOI)* The Counsel maintained that it is now a settled law that malice must be alleged against the particular officer who has taken the decision. MTA 1986
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5. As prayed by the applicant in her application, we have also perused the file on which the transfer has been ordered.

5. We find that the applicant's transfer has been ordered in the exigencies of service and public interest. Though she has given a large catalogue of various so-called acts of harassment to her since her joining the service firstly at Calcutta and later at Delhi, we have not been able to find specific acts of mala fides. There is also nothing to show that everyone was interested in causing harassment to her and making her a victim, as alleged.

As such, we find no grounds to grant admission to the application. ²~~The interim stay granted is hereby vacated.~~²

There will be no order as to costs;

Announced in open court.

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(BIRBAL NATH)
A.M.

B. C. Gadgil
(B.C. GADGIL)
VICE-CHAIRMAN

After the above order was announced the applicant has made a prayer that the stay granted earlier may be continued for some time as the applicant wants to approach the Supreme Court and apply for stay. Shri J. Sakai (for Mr. N.S. Mehta) opposes his prayer. However, we feel that 3 weeks time be granted to the applicant. ~~for getting~~ Hence the interim stay should continue upto 30.10.1986.

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B. C. Gadgil
9.10.1986