

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No./457

~~TAX NO.~~

1986

DATE OF DECISION 29-1-1987

CHIRANJILAL M.GAJJAR Petitioner

D.M.THAKKAR

Advocate for the Petitioner(s)

UNION OF INDIA & OTHERS

Respondent

R.P.BHATT

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H.TRIVEDI

: VICE CHAIRMAN

The Hon'ble Mr. P.M.JOSHI

: JUDICIAL 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 ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

JUDGMENT

OA/457/86

29-1-1987

(5)

Per: Hon'ble Mr. P.H.Trivedi, Vice Chairman.

In this case the petitioner has impugned respondent's order in transferring him from Mehsana to Rajkot with a view to accommodating Shri Parahar at Mehsana, although in another case No. OA/126/1986 he had obtained a judgment of this Tribunal against a similar order in which it was sought to transfer him. The petitioner's contention is that he has been or sought to be transferred four times in a year, on 6.8.1985 from Sabarmati to Rajkot, on 21-10-85 from Rajkot to Mehsana, on 22-5-86 Mehsana to Rajkot and on 9-12-86 from Mehsana to Rajkot. Against the last order he has approached the Tribunal in this case for challenging it. He has also challenged the order of transfer because it has been passed by an officer who has no competence in as much as only the Chief Engineer (Mechanical) (Estt.) i.e. C.M.E.(E) is the competent authority for this purpose.

2. We heard the petitioner in person and on behalf of the respondent an officer of its administration namely Mr. P.H.Pandya. The petitioner has contended that there has been a prejudice against him on the part of Mr. Phoolsingh who has taken a keen interest in posting Shri Parahar in Mehsana where he retains his quarter. He has contended that inspite of the orders of this Tribunal in another case referred to, the respondent persists in transferring him and harassing

him. Shri Parahar had been sent on training from Rajkot and on completion of the training, he should have returned to Rajkot and there are no reason for disturbing the petitioner so soon after his joining at Mehsana. The transfer is not therefore in public interest. There can be no conceivable administrative reason in public interest requiring the services of the petitioner at Rajkot as the work of Loco Foreman, can be done by any competent person. Actually, the petitioner's contention is that Shri Parhar was required at Rajkot for which reason he was asked to go there by orders dated 1-12-86 but he has refused to accept the duty pass. These facts have been averred by the petitioner. Copies of the relevant correspondence have been filed by him along with his petition.

3. In his reply the respondent has taken the stand that the transfer is merely on administrative considerations and cannot be contested in the forum of the Tribunal nor the applicant can claim to be at one place when he is transferable. Mr. Parahar according to the respondent is senior to the applicant and the transfer of the applicant has been brought about due to certain problems having been encountered rendering movement of certain officers necessary.

4. After perusing the petition and the reply and rejoinder and hearing the applicant and representative of the respondent we are unable to see any logic or any evidence of public interest in the decision of transferring the petitioner from Mehsana. We are normally not inclined to interfere in the respondent's decision

of transferring his employees but we have to satisfy ourselves that such transfers are not made in an arbitrary manner and in which there is no semblance of public interest. It is not necessary to go into the malafide alleged against individual officers by the petitioner. The fact that the petitioner has been sought to be transferred frequently and that he has been at Mehsana only since 22-5-1986, is adequate to call for a reason which should warrant such a transfer. We are unable to ascertain any specific rules or guidelines followed by the respondent ordering transfer of the category of the staff to which the petitioners belongs. We however expect that it is normal for an officer to remain at one place for two or three years. It is therefore clear that the petitioner is sought to be disturbed before the end of his normal period of posting at a place. The reasons given by the respondent requiring the petitioner to be moved are not found satisfactory. The mere fact that Shri Parahar has quarters at Mehsana cannot justify his posting there. The plea of transfer on account of promotion also does not impress us. We have made our observations regarding this aspect in our judgment in another case (No. OA/26/86) by the same petitioner. Even if Mr. Parhar needs to be moved from Rajkot, this should be done in such a manner that persons who have not completed their normal term at one place are not disturbed. During the hearing the respondent stated that they were under the impression that the orders of the Tribunal

in the judgment in OA/26/86 required the respondents to transfer the petitioner from Mehsana to Rajkot. There is absolutely no ground for forming such an impression as in operative portion of judgment it has been clearly directed that the impugned orders of the transfer of the applicant are quashed and set aside.

5. We find that the petitioner has merit. The impugned orders of transferring, the petitioner~~s~~ are quashed and set aside. No order as to costs.

Arvind
(P.H. TRIVEDI)
VICE CHAIRMAN

Arvind
(P.M. JOSHI)
JUDICIAL MEMBER