

X

(5) (6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 64 of 198 6
T.A. No.

DATE OF DECISION 18.9.'86

SHRI D. H. DAVE Petitioner

SHRI D. M. THAKKER Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent

SHRI J. D. AJMERA 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.



8

O.A. 64/86

(7)

Date of Decision: 18.9.'86

Per: Shri P. H. Trivedi

JUDGEMENT

The applicant, Shri Dineshkumar Dave, is aggrieved by the order to transfer him from Ahmedabad to Jamnagar, as Cinema Projector, and has asked for relief by way of quashing and setting aside the impugned order dated 10th March, 1986. He has pleaded that there is no post created at Jamnagar for Cinema Projectionist, that the post at Ahmedabad which he holds is centrally located for covering the whole of Gujarat, that although he has been at Ahmedabad for 12 years, he is not required to be transferred only on that ground on account of the relevant instructions or policy in this regard not being applicable to isolated posts and that on compassionate ground, he should be retained at Ahmedabad because his wife, an employee of P & T department, a telephone operator, is also at Ahmedabad. He has relied upon para 3 of instructions dated 17th November, 1983, which deals with the policy of Government transfers on account of employees who have stayed in the same station for a very long period:

"The above instructions would not be implemented in those cases where either only one appointment is sanctioned for the zone or where not more than one BRO exists in a State."

The learned advocate, Shri Thakker, has further pleaded that if all along, the work of Cinema Projectionist has been managed for the whole of Gujarat, for which there is only one post at its headquarters in Ahmedabad, there

.....2



is no reason why it is now thought that it can be managed better from Jamnagar, and the transfer at Jamnagar is arbitrary and not in public interest. In reply, the learned advocate, Shri Ajmera, for the respondent, has pleaded that it is not true that the post of Cinema Projectionist is an isolated post covering Gujarat, and that it is for the authorities to judge where the employee is best utilised. In reply to the contention of the applicant that the impugned transfer orders are passed by the authorities not competent to do so, the learned advocate for the respondent has stated that as these orders have been issued by the Headquarters Recruiting Zone, in compliance with the policy adopted by the Army Headquarters, the impugned transfer orders are perfectly in order.

It is admitted that the applicant has been at Ahmedabad for 12 years, and that his work as Cinema Projectionist is to exhibit audio-visual material to familiarise the general public as well as the army personnel with various facets of army life and also to provide material of entertainment value. It is seen that Annexure B of the application indicates Poona as the area, and Poona and Ahmedabad as corresponding offices. From this, it is clear that Ahmedabad office is not isolated and there is no single office, or for Gujarat alone. It is also found from another order dated 8th October, 1980, which has been relied upon by the applicant that there are several stations of posting ,

.....3



which are not included in the list at Annexure B to the application. It will be legitimate, therefore, to find that stations of posting could be changed from time to time, according to the judgement of the competent authorities regarding the places where the Cinema Projectionist should be stationed in order to best utilise their services. In Jamnagar, it is known that there is sufficient presence of various categories of armed forces. There is no reason to believe that the area which was served by the Cinema Projectionist from Ahmedabad, would not be equally well served from Jamnagar. In defence services in which strict obedience is especially at premium, nothing should be done which causes any doubt or ambiguity regarding prompt compliance of proper orders. There is no reason to believe that the transfer orders impugned in this case, by the applicant are arbitrary or malafide. It is well established in several decisions of Courts, that in matters of transfer, unless there are strong grounds for intervening due to malafide, or abuse of powers, Courts should be reluctant to intervene. While Government policy is to keep husband and wife together when they are Government employees, it cannot be pleaded that it must always be so disregarding administrative exigencies or that in this case they must be together necessarily in Ahmedabad. The applicant is free to seek a transfer for his wife if she so wishes from P & T authorities, if it is possible for them to accomodate her at Jamnagar. The application has no merits and is rejected. No order as to costs.



(P. H. TRIVEDI)
Vice-Chairman

(P. M. JOSHI)
Judicial Member