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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 78
T.A. No.

1986

DATE OF DECISION 29.8.'86

Shri B. S. Patel Petitioner

Shri S. H. Sanjanwala 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)

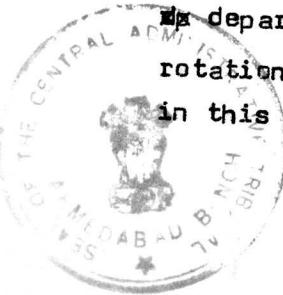
1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

Per Mr. P.H. Trivedi (Vice Chairman)

JUDGEMENT

The applicant Shri B.S. Patel, a wireman under Divisional Engineer, Telegraph, Valsad, aggrieved by an order No. E-211-53, dated 8.7. '86 of the Divisional Engineer, Telegraph, Valsad, transferring him from Valsad to Bilimora exchange, has alleged that the order is malafide and has been motivated on account of some vigilance inquiry against one Mr. Modi, which has antagonised the Divisional Engineer. He has stated that the climate of Valsad does not suit him and he has applied for a transfer to Baroda. But instead of transferring him to Baroda, as requested by him, he has been transferred to Bilimora. The transfer is also not normal as it is a single transfer order. Shri R.M. Patel, who has been transferred to Valsad, at his request, has been induced to ask for it, only because of the transfer of the applicant, so as to victimise the applicant. The transfer will cause a great deal of hardship to the applicant, and not being a normal transfer, and being motivated for harassing him, the applicant has asked for the orders to be set aside. The respondents have pleaded that there are no malafides in the case and the transfer has been effected for administrative reasons. The orders of transfer of 5th July, 1986, have been subsequently supported by Director, Telecommunications, Baroda, on 24.7. '86. The applicant's plea, that the competent authorities have not applied their mind before transferring him and have been influenced for reasons other than of public interest, have been denied by the respondents.

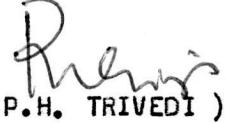
We have noted that the applicant has continued to serve in Valsad, for 10 years, and his plea that his transfer from to Bilimora, constitutes hardship, is not convincing. It is true that the applicant had asked for transfer to Baroda, but that station is under another division and, in any case, he could not claim such transfer as a right. On other hand, the question of transferring him to Baroda can be taken up later by him, if so merited. Although this is a single transfer, there is no reason to believe that on that ground, it is barred. Even if the transfer has been occasioned for accomodating Shri B.S. Patel, that does not rob the orders of administrative exigencies. The learned advocate for the applicant has cited S.C.A.193 of 1980. A.M. Patel & Ors. Vs. Municipal Commissioner, Ahmedabad, (G.L.T. 1980, volume 17, 197 pg.242), in which it is stated, that administrative directions and instructions cannot ordinarily be departed from this order to establish that normal transfers on a rotational basis can be made only at fixed periods and that the transfer in this case, not being a normal transfer, is not allowed under the Rules.



We are unable to agree with the learned advocate because the departmental instructions and the judgement quoted do not exclude transfers for reasons of administrative exigencies. The learned advocate for the respondents has cited the decisions in *Shantikumari Vs. Regional Deputy Director, Health Service, Patna* ((A.I.R. 1981 S.C. pg. 1577) and *taragauri Kalyanji Khimani Vs. District Panchayat at Jamnagar & Another* (G.L.H. 1984 pg. 58), in support of his stand that, transfers in public interest should not be normally interfered with by the courts because malafide are easy to allege but difficult to prove, and that the administration must be left reasonably free in the matters regarding transfers.

We find that the applicant has not established that the respondents have acted malafide or with a view to cause harassment to the applicant and the decision that balance of convenience lies in transferring him to a mere 20 kms. away from Valsad, where he has worked for 10 years, cannot be impugned for malafide for retaining the applicant at Valsad. His request for transfer to Baroda can be given due consideration by the departmental authorities, on his fresh representation, and there is no reason to believe that his transfer to Billimora, at this stage ~~need~~^{stand} in the way of his future transfer to Baroda. The Plea of malafide borders on the frivolous in this case, but we refrain from awarding costs to the respondents, because the applicant is a low paid Government Servant. Parties will bear their own costs. We dismiss the application.




(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
JUDICIAL MEMBER