

CORAM : HON'BLE MR. P. M. JOSHI .. JUDICIAL MEMBER

30/10/1987

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner Shri M.P. Vasani has challenged the validity of the order dated 15.10.1987, whereby he is transferred from "Auto Section" to "Trunk Section" with assignment of operative job. According to him in the year 1974, he was suffering from T.B. But after being cured of his said disease, he was made handicapped and he is suffering from "Ankylossing Spondylities" in both the hip joints of the legs. It is submitted that due to his physical incapacity, he has been assigned work of non-operative job in the Auto Section for the last 11 years. But due to the present transfer he will have to work in Trunk Section with assignment of operative job which is likely to affect his health and efficiency. He has therefore, prayed that the impugned order be quashed and the respondent be directed to continue him on the present job.

Mr. R.J. Oza, learned counsel for the applicant at the very out set, submitted that the cause represented in the present application requires human approach and the respondent No. 2 who has passed the order of transfer is very much sympathetic to the applicant in considering him to continue on the same job but when other employees of the same cadre are being transferred, the Employees' Union is very much opposed to the applicant's retention on the present position. It is further submitted that the applicant has made representation against the impugned order but the same has not been considered and decided so far and hence in the meantime, the applicant deserves to be

protected by interim orders. Mr J.D. Ajmera, the learned counsel for the respondents has opposed the admission of the application on the ground that the place where the applicant has been transferred is in the same premises and situated on the first floor. According to him, even otherwise this is not a case where the Tribunal should interfere in the administrative action on decision in respect of transfer.

It is true, the Government is the best judge to decide how to distribute and utilise the services of its employees and the powers exercised in this regard ordinarily should not be interfered by the Court unless it is based on extraneous consideration or for achieving an alien purpose. In the instant case, no such case is made out. But having regard to the special circumstances of this case that the applicant after being handicapped, he has been allowed to work more than a decade on the present job where he is not required to undertake operative activities. It seems, the applicant has already made representation to the competent authority to review the decision made in this regard. It is therefore, in the fitness to direct the respondent to consider and decide the representation made by the applicant. We are confident that the respondent administration would be considerate to the special predicament in which he is placed and take suitable decision at the earliest. Bearing in mind, the circumstances as discussed above, even though the application is being rejected, it is directed that the impugned order will not be operated for a period of fortnight (i.e. till 15th November, 1987) from the date of this order and the respondents are directed to take early decision on the