

(S)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 536 of 1987.
~~Fixx No.~~

DATE OF DECISION 18.3.1988

SHRI B.R. MODI Petitioner

P.S. CHARI Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondents

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 ? *Y*
2. To be referred to the Reporter or not ? *Ab*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Ab*
4. Whether it needs to be circulated to other Benches of the Tribunal. *Ab*

Shri B.R. Modi
2, Meena Park Society,
Near Kiran Park, Nawa Wadaj,
Ahmedabad - 13.

..... Petitioner.

(Advocate : P.S. Chari)

Versus.

1. Union of India,
(Notice to be served through
Central Provident Fund Commissioner)
Central Provident Fund Commissioner's
Office, Cannought Circle,
New Delhi.

2. Mr. J.M. Pandya or his
successor in office,
Regional Provident Fund
Commissioner, Gujarat State,
Dalal Wada, Relief Road,
Ahmedabad.

..... Respondents.

(Advocate : J.D. Ajmera)

O R D E R

O.A.NO. 536 OF 1987

Date : 18.3.1988

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

In this application under section 19 of the Administrative Tribunals Act, 1985, filed on 15.10.87, by the petitioner Shri B.R. Modi of Ahmedabad, has challenged the order No. GJ:PFC:PA:ADMIN:3 dated April 2, 1987 (Annexure A-2); whereby he is reverted from Head-Clerk to U.D.C. He has assailed the said order on the grounds inter-alia that after he had resumed his post of promotion, the orders pertaining to his transfer from Ahmedabad to Baroda was unwarranted and due to compelling circumstances, he was constrained to express his unwillingness and inability to go Sub-Regional Office, which should not have been weighed adversely by the authorities.

2. We have heard Mr. P.S.Chari, the learned counsel for the petitioner and Mr. J.D.Ajmera for the Respondents at a considerable length. ^{Mr. Chari} He has not been able to show how the petitioner can complain against the orders of reversion when he himself has expressed his inability and unwillingness to continue on the post of promotion at Baroda where he was transferred. Further he has not been able to establish ^{as to} ~~how~~ the impugned order is against any rule or violative of the guidelines.

3. It is pertinent to note that when he was posted to Sub-Regional Office Baroda as Head Clerk, in his representation dated 3rd March, 1987 he has expressed his inability to go any Sub-Regional Offices in categorical terms and he has assigned the following reasons for the same.

- (1) that I am suffering from alergy of dust and change in climatic condition which results in cold, fever and severe headache. I am also suffering from severe continuous backache.
- (2) that I am facing financial hardship due to my father's retirement and liability to maintain joint family. Hence, I cannot bear additional burden of expenditure.
- (3) that I am studying in LL.M Part II for which I had obtained study permission from the office.

4. The Regional Provident Fund Commissioner having taken into account the request of the petitioner and another non-applicant Shri M H Patel (who was also transferred promotion and posted to Sub-Regional Office), has passed the order dated April 2, 1987. The present petitioner and Shri M H Patel (non-applicant) who were promoted as Head Clerks on adhoc basis are reverted to their substantive post of U.D.C., as both of them had expressed their inability for their duties at any of the Sub-Regional Office. Bearing in mind, all the facts and circumstances of this case we do not find any merits in

(1)

the application and ~~is~~ hence it is rejected at
the stage of admission.


(P. M. JOSHI)
JUDICIAL MEMBER


(P. H. TRIVEDI)
VICE CHAIRMAN

ttc.