

CORAM : HON'BLE MR. P.H. TRIVEDI : VICE CHAIRMAN

20/11/1987

Heard learned advocate Mr. I.S. Supbha and Mr. J.D. Ajmera learned counsel for the applicant and the respondent respectively. The applicant having relied upon the policy circular annexed at 'A9' dated 13-9-1970 urging that he is transferred from Surendranagar to Limbdi vide order at annexure 'A8' dated 25-9-1987 should be interfered with by an order cancelling the same. In fact the policy circular dated 13-9-1970 applies only when the transfer is on account of re-adjustment of staff or opening of new office. On perusal of the transfer order dated 25-9-1987 it clearly shows that this is a normal transfer not involving any re-adjustment of staff or opening of a new office. The applicant has admittedly been at Surendranagar for 10 years. His other plea is that there are other officers who have been longer in their station as detailed by him at Annexure 'A5'. He has shown no instructions in support of the plea that in the matter of ordinary transfers there is any instruction on policy that those who are longer in the station should go first. There is no circular even to support that any tenure of service in any one station for a fixed period has been prescribed. Even if, such a tenure is presumed normally for a period of 3 years the applicant has finished it several years ago. Once the normal the normal period of tenure is over it cannot be urged that there is any right in favour of being retained in a particular station until others who are so retained for longer periods are transferred before the petitioner. Even in terms of the policy circular dated 13-9-1970 prescribing the order and regulating the order in which the transfer should take place. It is significant that others who have completed their tenure are in category III and those who are for the longest period stationed are

(3)

in category IV. We have incidentally observed ~~that~~ in the order in which the transfer has to take place there is an element of irrationality, in this it is so interpreted in item (4) officials with the longest in the station may not have completed their tenure and if so, they ~~have~~ to be transferred after those who have completed their tenure. On the above the applicant has stated that his wife is having heart condition. There is no allegation of mala-fide and only the question of arbitrariness arises. The ground of compassionate treatment is a matter of representation to the respondent authorities and we have no doubt that if, it is made, the respondent authorities will take a sympathetic view of the matter if so deserved. The learned advocate for the applicant has urged that the transfer is being made in the midst of the school session and has stated that according to the para 37 (a) of the P & T manual as far as possible the transfers should not be made in the midst of the academic year. The same rule allows the authorities to transfer in case of administrative judgment of the respondent. The learned advocate has stated that due to an accident he was unable to climb the poles. This matter depends upon his present medical condition and in support of this no medical certificate is attached.

We therefore do not find any merit in this petition. With this observation the case is dismissed with no order as to costs.

P. H. Trivedi

(P.H. TRIVEDI)
VICE CHAIRMAN

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