

Coram : Hon'ble Mr. P.H.Trivedi : Vice Chairman

8/4/1988

Heard Mr.C.S.Upadhyaya and Mr.J.D.Ajmera learned advocates for the applicant and the respondent. Learned advocate for the petitioner states that in this case earlier in OA/161/87 <sup>while</sup> ~~vide~~ the petition in that case was held to be failed. Observations were made that there was some ground for treating the petitioner's case compassionately in due course and on his making necessary representation. This representation has, according to the petitioner, been made, ~~etc.~~ In the meantime the petitioner has been relieved. The petitioner's present case is merely for staying the transfer and the petitioner has urged for in another case OA/660/87 <sup>that on the ground that</sup> ~~in which~~ <sup>the</sup> ~~in~~ the transfer of the petitioner was stayed.

2. We find that the cause in this case has already been ~~balanced~~ <sup>challenged</sup> in OA/660/87 which has been decided upon <sup>new</sup> ~~and~~ <sup>in</sup> that case the decision was the petition was held to be failed <sup>and</sup> ~~the~~ <sup>claim was</sup> ~~the~~ <sup>that</sup> the petitioner cannot raise any ~~re~~ <sup>any</sup> ~~on the~~ basis of observations <sup>and</sup> ~~R~~ representation can be made by the petitioner <sup>that</sup> ~~and~~ there was some ground for dealing with his representation compassionately. The petitioner's representation having been made, the respondent authorities in fairness can be asked to dispose of the same within three months, but there is no ground for interfering with the transfer order. The respondent authorities may deal with the matter appropriately having regard to the fact that the representation is pending for disposal.

So far as the interim relief is concerned the question of granting interim relief in this case does not arise because merits of the case have <sup>been</sup> ~~already~~ decided in the case of OA/660/87. This case is therefore has no merits so far as admission or interim relief are concerned and is rejected. With this observation, the case is disposed of.

*Rini*

(P.H.Trivedi)  
Vice Chairman

MA/426/88  
in  
OA/226/88

Coram : Hon'ble Mr. P. H. Trivedi : Vice Chairman

16-5-1988

Heard learned advocates Mr. C. S. Upadhyay for the applicant and Mr. J. D. Ajmera~~x~~ for the respondents. The petitioner seeks a review of the order dated 8/4/1988 in which it was held that <sup>there</sup> was no ground for interfering with the petitioner's proposed transfer from Bhuj to Kaldimpong on the ground that the petitioner had stated in his application in OA/226/88 that his presence at Bhuj is required due to various litigations in which he was a party and he has urged that guide-lines dated 23/11/1987 annexed at Annexure 'A/3' were not taken into account. These guide lines in terms only refer to the pre-matured transfers in future. The petitioner admittedly has been in Bhuj for a considerable period and he is not being transferred pre-maturely and these guide lines, therefore, does not help to him. Besides, the guide lines do not supersede the department's power to make transfers in administrative exigencies and do not provide by themselves any adequate ground for interference unless any case is made out on the basis of mala fide, arbitrariness~~x~~ or action under colourably exercise of authorities. This cause has not been raised in the review petition. There is also no other circumstances urged for justifying the review. However, of a representation having been already made by the petitioner, the respondent authorities are not ~~xx~~ in any way constrained by our orders from deal~~with~~ with the representation on its merits and the petitioner may

accordingly seeks redress from the respondents as the matter is now within the executive domain. With this observation, the petition is not found to have merit and reject it.

  
( P. H. Trivedi )  
Vice Chairman

Shah/-