

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 AHMEDABAD BENCH
 NEW DELHI

O.A. No.
 648

1988

DATE OF DECISION 10.10.1988

Shri Hiralal R. Patel Petitioner

Shri V.S. Mehta Advocate for the Petitioner(s)

Versus

Union of India & Anr. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D. S. Mishra Administrative Member

The Hon'ble Mr. P. M. Joshi Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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Shri Hiralal R. Patel,
 Head Goods Clerk,
 KRIBHCO Siding,
 Hajira Road,
 Surat - 394 515.
 (Advocate - Mr. V.S. Mehta)

.. Applicant

Versus

1. Union of India, through
 General Manager, W.Rly.,
 Churchgate, Bombay.
2. Divisional Comm. Supdt. (E),
 Baroda Division, W.Rly.,
 Baroda.

.. Respondents

(Advocate - Mr. N.S. Shevde)

O R A L - O R D E R

10/10/1988.

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

The petitioner, Shri Hiralal R. Patel, serving as Head Goods Clerk at KRIBHCO Siding (Surat) has filed this application under section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the order of transfer dated 16.09.1988 (Annexure A) whereby he is transferred from KRIBHCO Siding to Miyagam which reads as under :-

"EX H/72H R Patel HQC scale Rs. 1400-2300 (RP) Kribhco Sdg Kosad is transferred to Myg in same pay & scale in the interest of service CMI BH will arrge to relieve him immdtly w/o relief by managing work HB Sharma Hgc DHg scale Rs.1400/2300 (RP) scale is transferred to KRibhco Sdg Kosad in same pay & scale on name noting Regular orders will follow - ensile."

2. According to the case set up by the petitioner, he is running 57th year of his life and will attain age of Superannuation on 1.8.1990 and ^{the order of} ~~is transferred~~ on the eve of his retirement is bad in law. It is alleged that the impugned order of transfer is malafide ^{passed} and is in colourable exercise of power as the impugned

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transfer creates insurmountable medical problems of heart disease of the petitioner.

3. Relying on the case of Shanti Kumar Ghose v/s. Union of India (Calcutta) (1987(2) ATR 564), it is strenuously urged by Mr. S.V. Mehta, the learned counsel for the petitioner that the petitioner who is on the eve of retirement, ought not have to be transferred and it is against the recommendation of the Commission accepted by the Government. He has further stated that the impugned order of transfer is punitive inasmuch as the complaint made by some officer ^{him a} has not been inquired into by affording reasonable opportunity.

4. Mr. N.S. Shevde, the learned counsel for the respondents has opposed the admission of the application on the ground that the order of transfer is made in the interest of administration and ordinarily such orders of transfer being issued in the interest of administration, should not be interfered by the Courts. It is pertinent to note that the petitioner has been transferred from KRIBHCO Siding to Miyagam which is nearest station and within the same division. It is true that ordinarily, the employee who is on the eve of retirement may not be transferred, but that does not entitle the employee to refuse the transfer, when made in the interest of administration. Obviously, the order of transfer is simpliciter, as it has been made explicit that it is in the interest of service. Even the allegations of the colourable exercise of power in passing the order of transfer, are not substantiated by any material. In case, the petitioner has any difficulty on medical ground, and he wants some convenient station, he will be free to make representation

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to the authorities for accomodating him in another nearest Station and we have no doubt that such a representations will be considered ~~by~~ suitably by the authorities within a period of one month from the date of this order.

For the reasons stated above, we do not find any merit in the application and reject the same. There will be however no order as to costs.

Joshi
(P M Joshi)
Judicial Member

DSM
(D S Misra)
Administrative Member

*Mogera