

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

M.A./O.A./T.A./ 175 /1989

H P Thakou

Applicant(s).

G m shel.

Adv. for the
Petitioner(s).

Versus

Union of India &

Respondent(s).

B K Gole

Adv. for the
Respondent(s).

SR.NO.	DATE.	ORDERS.
		Dismissed & duly (Copy not sent)
22-2-89-FA (B) 17/5/89		(A change from 13-7-89 to 17/5/89 due to copy not served & notice is not issued to the Respondent)
27/7/89 (B) 17/8/89		Pl issue notice to the Respondent. - RPAO received from applicant & LT adv. - RPAO received from both respondents.
18/8		Pl issue notice to P.A. to reppo. Pending Admission.
4/9		RPAO received from resp. no. 2, which is kept with AM/262/89.
		- RPAO received from resp. no. 1.
19/10/89		RPAO received from applicant's advocate.
19-10-89		Matter is not placed on Board as per oral instructions from Hon'ble. May be placed on D.C.
19/12/89		A Post card received from petitioner's adv. giving intimation regarding death of petitioner.

SR.NO.	DATE.	ORDERS.
	31-1-90	<p>Neither party nor its advocates present. The matter is adjourned. The case be postponed for admission in due course</p> <p><u>from</u> 31/1</p> <p><u>from</u> 31/2</p> <p>CH</p>
		<p>→ Reply filed by Mr. B.R. Khande, adv. for respondent.</p> <p><u>by</u> 19/2.</p>

O.A./175/89

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

17/8/1989

Heard Mr. G.M. Shah, learned advocate for the petitioner. Pending admission. Issue notice on the admission and respondents to reply on/ad interim relief within 15 days. The case be posted on 4th September, 1989 for admission.

Ph...
(P H Trivedi)
Vice Chairman

*Mogera

C.A./175/89

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

4/9/1989

Heard Mr. G.M. Shah and Mr. B.R. Kyada, learned advocates for the petitioner and respondents respectively. Learned advocate for the petitioner states that there is no proper order of transfer and sought to read page No. 1 of the transfer order of which page No. 2^{is} at page 16 of the petition. The petitioner's case is that he has been transferred due to the interference of the Sarpanch who wanted the gate to be opened in the night and on the petitioner's refusal the transfer order~~s~~ discontinuing his duties on gate No. 209 has been passed. The petitioner also contended that he has been given no order of posting him on gate No. 202 and he sought to rely on the second para at page 19 regarding the representation he made. The respondent's case is that between gate No. 209 on which the petitioner is working and gate No. 202 where the petitioner is transferred, there is hardly a distance of 10 kmts., Therefore, the transfer is w^h the exigency of the administration and there are residential quarters provided in the interest of and he work of the petitioner~~s~~ has been already served with the order, and~~s~~ he implemented the said order because from that date another person has been working on gate No. 209 and the petitioner himself has referred to another date namely 3.10.1988 on page 19 which the learned advocate for the petitioner states that is a typographical error.

It was suggested to the petitioner that he was prepared to accept any gate according to the decision of the respondent and~~s~~ he accepts the

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but allowed to resume transfer, he should not be got any back wages. The petitioner declined and stated that only if he is posted on gate No. 209, he was prepared to settle the matter.

After hearing the learned advocates, we have grave doubt regarding the admission of this case because transferring the petitioner from one gate to another is an ex-facie within the ^{executive domain} exigency of the administration. No malafide can be ^{inferred from} drawn to the orders passed by the authority because it is clear that it is not the Sarpanch who has passed the order nor has ^{it} been shown from the pleadings that the authority who has passed the order is associated ^{with} to the Sarpanch. The petitioner is stated to be a regular employee in class IV according to the submission of the learned advocate for the petitioner. It was pointed out to the learned advocate for the petitioner that the impugned order is in August, 1988 but the petition has been only filed on 31st March, 1989. Learned advocate for the petitioner stated that he has filed it within the period of six months and that he was subject to ^{the condition} to exhaust the remedy available by filing representation. There is no question of limitation but the delay has to be explained in terms of the ^{urgency} exigency experienced by the petitioner in approaching the Tribunal for remedy and it is only ~~apparently~~ explained by the representation that he has filed. However, before summarily dismissing the petition, it is necessary that a Division Bench should decide the case. The case therefore be ~~referred~~ referred to the Division Bench with the above ^{observations} discussion. Registry to fix the case Accordingly.

Phenr

(P H Trivedi
Vice Chair

OA/175/89



Coram : Hon'ble Mr. G.S.Nair : Vice Chairman
Hon'ble Mr. M.M.Singh : Administrative Member

21/3/1990

Applicant and his counsel not present.

Mr.B.R.Kyada, counsel for the respondents present.

It is seen from the proceedings dated 4.9.1989 that the Hon'ble Vice Chairman sitting single has taken the view that there is no merit in the application but it was not rejected as he was in competent to do so sitting single.

To-day when this matter was taken up for hearing neither the applicant nor his counsel has appeared. We have heard Mr.B.R.Kyada, counsel for the respondents. We are not satisfied that there ^{are} ~~is~~ a case for admission.

The essential relief that is claimed in the application by the applicant who is a gate man is to take him on duty as Gate No.209 from where he has been transferred to Gate No.202, which transfer according to the counsel of the respondent has been made in an administrative interest. *As such we are not*
ground for interference.
We reject the application.

M. M. Singh
(M.M.Singh)
Administrative Member

G. S. Nair
(G.S.Nair)
Vice Chairman