

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 459 OF 1989

~~R.A. No.~~

DATE OF DECISION 20-3-1992

Balchandra S. Lolap, Petitioner

Mr. A.M. Raval for Mr. M.R. Anand, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. R.M. Vin, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ×
3. Whether their Lordships wish to see the fair copy of the Judgement ? ×
4. Whether it needs to be circulated to other Benches of the Tribunal ? ×

7

- 2 -

Balchandra S. Lolap
64, Patel Nagar,
A.K. Road, Surat.

.... Applicant.

(Advocate: Mr. A.M. Raval
for Mr. M.R. Anand.)

Versus.

1. Union of India
Notice of the petition
to be served to the
Secretary, Railway
Department, New Delhi.

2. Divisional Railway Manager (E)
Bombay Central,
Bombay.

..... Respondents.

(Advocate: Mr. R.M. Vin)

J U D G M E N T

O.A.No. 459 OF 1989

Date: 20-3-1992.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard Mr. A.M. Raval for Mr. M.R. Anand,
learned advocate for the applicant and Mr. R.M. Vin,
learned advocate for the respondents.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, is filed by
the applicant challenging his transfer order
Annexure A-2 dated 7th September, 1989 by which
he is transferred from Surat to Bhestan on the
same scale and rate of pay.

3. The applicant has alleged in his application
that he is a member of Scheduled Tribe and he has ^{been} /
harrassed by frequent transfers, in violation of

respondents' own binding policy decisions, against the frequent transfers of SC/ST candidates. He has also alleged that he has been transferred in malafide manner to protect other persons who are occupying the quarters at Surat by sacrificing a scheduled Tribe candidate. He has, therefore, prayed that the impugned transfer be held as illegal and the same be quashed, because according to him, the sole reason for transferring him out of Surat is to accommodate one Shri Bafna, an illegal occupant of the quarters allotted to another E.S.M. Shri Mansoor. The respondents have filed detailed reply contesting the application.

4. The respondents have denied that the applicant is being harrassed by frequent transfers in violation of policy or Rules. The respondents have contended that the applicant had appeared for the trade test for promotion to the post of ESM-I on 18th June, 1987 and not in the year 1986 as alleged. The applicant was declared pass vide notification dated 8th July, 1987 and then he was promoted to the post of ESM-I and transferred from Chief Signal Inspector Nandurbar to CST Surat. Due to administrative difficulties, he could be relieved on 7th October, 1988, Annexure A-1, produced by the applicant dated 7th October, 1988 is a copy of promotion-cum-transfer order. The

allegation of the applicant in the application is that after he was posted at Surat, he was transferred to Navsari within a day, that the applicant then worked at Navsari for four days and then he again ^{was} transferred to Surat. The respondents have denied that the applicant was transferred, as alleged by him. The contention of the respondents is that under CSI Surat, there are different units and Navsari is one such unit under the control of CSI Surat and in the exigencies of service, applicant was deployed for three days from Surat unit to Navsari unit, therefore, the deployment of applicant to Navsari was not a transfer. The allegation of the applicant that he was transferred to Navsari and back to Surat is not correct because it was not a transfer but he was deployed from Surat unit to Navsari unit for few days.

5. The other allegation of the applicant is that within nine months, the applicant was sought to be transferred from Surat to Bhestan under the impugned order Annexure A-2 dated 7th September, 1987. The contention of the respondents is that SC/ST employees in terms of the existing circular should not be transferred from the district as far as possible. The applicant was working at Nandurbar and on his passing the trade test, he was promoted

to the post of ESM-I and as the vacancy of ESM-I was only at Surat, he was posted at Surat. It is also the case of the respondents that Bhesthan is one of the units like Navsari under the control and jurisdiction of CSI Surat, therefore, posting or shifting of the applicant from one unit to another unit under the same district cannot be held as transfer. More over the posting of applicant at Bhesthan station was done in order to facilitate him with the railway accommodation which was only available at Bhesthan station at the relevant time. Thus, the applicant cannot make a grievance that he is posted from Surat to Bhesthan because Bhesthan and Navsari are under the control and jurisdiction of CSI Surat and the applicant is not transferred ⁱⁿ another district.

6. The grievance of the applicant is that though he made representation to the higher authority, the higher authority did not pay any heed to it. According to the applicant, he had made representation vide Annexure A-3 dated 14th August, 1989 and Annexure A-4 also of the even date that he has been transferred in malafide manner to protect other persons. According to the applicant, one Mr. Mansoor, ESM was due for transfer but if he was transferred, one Mr. Bafna

who is occupying the quarters of Mr. Mansoor would have to be vacated from the quarters and to protect this unlawful game Mr. Mansoor was not being transferred, though he was promoted and the applicant was transferred so much so that Mr. Mansoor was kept at Udhna, District Surat, though there is no post of ESM Gr.I at Udhna which is real post of Mr. Mansoor. It is alleged by the applicant that he also pointed out to the authorities that if Mr. Mansoor is transferred to Bhestan, no interest of the railway would suffer and according to him, the local higher authorities were hand in gloves with Mr. Mansoor. The contention of the respondents on this point is that there were no malafides on the part of the respondents and no protection to the person alleged by the applicant was given. The respondents have denied that Mr. Mansoor was due for transfer and they have denied that Mr. Bafna was occupying the quarters of Shri Mansoor and, therefore, there is no question of any unlawful game as alleged. The contention of the respondents is that Mr. Bafna has recently asked for sharing accommodation with Mr. Mansoor vide his application dated 5th August, 1989 and the permission was granted from 14th September, 1989. They also contended that Mr. Mansoor was working at Udhna and there is no question of his promotion and transfer, whereas the

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applicant was promoted and transferred from Nandurbar to Surat under CSI Surat who is holding sub units at Amalsad, Ancheli, Vedcha, Navsari, Maroli, Sachin, Bhestan, Udhna and Surat and since there was vacancy at Bhestan. The respondents have denied that there is no post at Udhna. The respondents have contended that there are three post of ESM-I at Udhna and Mr. Mansoor was occupying one of the said post. As regards transfer of Mr. Mansoor to Bhestan, the respondents have contended that Mr. Bafna was not occupying quarter of Mr. Mansoor at Udhna at the relevant time and they have denied that the local authorities were hand in gloves with Mr. Mansoor. Thus the applicant was transferred under CSI Surat, having different sub units and the applicant^{was} posted to another sub unit in order to run the efficient working of Signal maintenance and therefore, neither the transfer is illegal nor any malafides are established. It is also contended by the respondents that there is no question of harrassment to the applicant in view of the fact that the distance from Surat to Bhestan is only nine kms. and posting at Udhna or Bhestan would not make any difference and therefore, there is no favouritism done to Mr. Mansoor. The applicant was initially transferred from Navsari to Surat on promotion and then from

Surat to Bhestan and in view of the fact that Bhestan and Udhna are the sub unit under CSI Surat, the applicant has no case that he is transferred and that too with a view to harrase him. Having considered the rival contentions I hold that the allegation of the applicant about the transfer is being illegal or tainted with malafides cannot be sustained.

7. The applicant also in his application referred to some Government notification dated 22nd November, 1977 against the transfer of SC/ST candidates. The respondents have contended that no policy decision of the Railway Board is violated. More over the applicant can be given a quarter at Bhestan provided he resumes duty at Bhestan and makes an application for the same.

8. The learned advocate for the applicant submitted that in view of the decision in B.Varadha Rao's case reported in AIR 1986 SC 1955, the frequent transfer of Class III & IV servants should be discouraged if the exercise of power is based on extraneous consideration or for achieving an alien purpose or an oblique motive. He submitted ^{said} that as per the decision frequent transfers, without sufficient reasons to justify such transfers, should be held as malafide.

9. As observed above, the applicant was posted to Surat on promotion and then he was deployed to Navsari unit which is one of the unit under the control of CSI Surat for few days and then he was brought back and therefore, the deployment of applicant for Navsari for three days could not be considered as transfer. Besthan is also one of the unit like Navsari and under the control and jurisdiction of the CSI Surat. Under these circumstances, even applying the ratio of the above decision, it cannot be said that there were frequent transfers of the applicant as alleged. So far the allegation of malafides are concerned, the applicant has failed to prove that his transfer was based on extraneous consideration or to accommodate another person. The respondents have categorically contended that Mr. Mansoor was not due for transfer and they have denied that Mr. Bafna was occupying quarter of Mr. Mansoor. On the contrary Mr. Bafna was granted permission from 14th September, 1989 for sharing accommodation with Mr. Mansoor. The respondents have contended that Mr. Mansoor was working at Udhna and there was no question of his promotion and transfer. It is also contended by the respondents that Mr. Bafna was not occupying the quarter of Mr. Mansoor at Udhna at

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relevant time. Thus the grounds of malafides also fails.

10. It is held in the decision in Gujarat Electricity Board V/s. Atmaram Sungamal Poshani AIR 1989 SC p.1433 and in the decision in Mrs. Shilpi Bose & Ors. V/s. State of Bihar & Ors. AIR 1991 SC 532 that the courts should not interfere with transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide. It is held in Mrs. Shilpi Bose case that even if a transfer order is passed in violation of executive instruction or orders, the courts ordinarily should not interfere with the order, instead affected party should approach the higher authorities in the department. In Ramjilal Chauhan V/s. U.O.T.&Ors., All India Service Law Journal, 1991 Vol.I, p.28, C.A.T. Principal Bench, it is held that the Tribunal found no absolute restriction in transferring SC/ST and the transfer is only an incident or not a penalty. In the instant case, the respondents have contended that the respondents have not violated any policy decision and Beshthan is only 9 KMs away from Surat and therefore, there is no

per

question of harrassement also to the applicant.

11. In this view of the matter, the applicant has failed to establish his case and I find no illegality in the impugned order under challenge.

Hence the following order:

ORDER

Application is dismissed. No orders as to costs.

R.C. Bhatt

(R.C. BHATT)
Member(J)

Central Administrative Tribunal Ahmedabad Bench.

Application No. CA/459/88 of 199

Transfer Application No. _____ Old Writ.Pet.No. _____

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided)

Dated: 3/6/92

Countersigned.

S

Section Officer/Court Officer.

Blugan

Signature of the Dealing
Assistant.

INDEX SHEET

PART A B & C

[illegible]

Previous transfer orders complied
because promotion or are they interim
Dns complied

LR - and admit

Nandubhai → Surt I 21-9-1988 - Complain
on promotion
Comp

Surt → Navani II 7-10-1988 complied
with

Navani → Surt III ~~Second~~
~~7-7-1989~~ compl

Surt → Bheethan IV ~~21-9-1988~~
Bhet
7-7-89
~~2-10-89~~ ✓

Surt Quater

Communications

Primary School
Teacher

on

1986 SC P 1955 See Vardhara Decision

A1 Transfer on promotion 07-10-88
from Nandubhai to Surt

Respondt

Page 23. Bottom line distance is
of 9 km between Surt
and Brestan

~~22/10/89~~
~~22/10/89~~

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Submitted;

C.A.T./Judicial Section.

Original Petition No.: 459 of 89.

Miscellaneous Petition No.: of .

Shri B S Wale Petitioner(s).

Versus.

Union of India Respondent(s).

This application has been submitted to the Tribunal by
Shri M R Anand under Section 19 of
The Administrative Tribunal Act, 1985. It has been scrutinised
with reference to the points mentioned in the check list in
the light of the provisions contained in the Administrative
Tribunals Act, 1985 and Central Administrative Tribunals
(Procedure) Rules, 1985.

The application has been found in order and may be
given to concerned for fixation of date.

The application is not been found in order for the
same reasons indicated in the check list. The applicant
may be advised to rectify the same within 21 days/Draft
letter is placed below for signature.

page no 15, is not legible - Will do -

25/10

20/10

10

12/10/89

We may put up the order for
admission on 26/11/89 as per order
directed on urgent note.

24/11/89

24/10/89

24-10-89

CENTRAL ADMINISTRATIVE TRIBUNALAHMEDABAD BENCHAPPLICANT (S) B S lo lapRESPONDENT(S) Union of India etcPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF
EXAMINATION.

1. Is the application competent ?
2. (A) Is the application in the prescribed form?
(B) Is the application in paper book form ?
(C) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?
If not, by how many days is it beyond time ?
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Nama been filed.?
5. Is the application accompanied by B.D./I.P.O. for Rs.50/-? Number of B.D./I.P.O. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed ?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ?
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ?
(c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents has been filed and has the paging been done properly ?

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PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with annexures filed.
 - (a) Identical with the original.
 - (b) Defective.
 - (c) Wanting in Annexures
No. _____ Page Nos. . _____ ?
 - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the Respondents been filed ?
14. Are the given addressed, the registered addressed ?
15. Do the names of the parties stated in the copies, tally with those indicated in the application ?
16. Are the transactions certified to be true or supported by an affidavit affirming that they are true ?
17. Are the facts for the cases mentioned under item No.6 of the application.
 - (a) Concise ?
 - (b) Under Distinct heads?
 - (c) Numbered consecutively?
 - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ?

Y

m

Y

Y

m

Y

Y

Y

Y

Admitted
M. A.

From : *M. R. Arand*
Advocate.

URGENT NOTE

To,
The Registrar,
~~High Court of Gujarat~~ *CAT*,
AHMEDABAD

Re : *O. A 459 / 89*
District :

Sir.

The above matter is an urgent one and, I want to move the Hon'ble Court for obtaining an order for ~~stay~~ / injunction / bail. Be pleased therefore, to direct the office to place this matter before the Court for admission on *24-10-1989*, I personally undertake to remove all office objections and to pay the deficit court fee stamps, if any.

*The petitioner, an ST employee,
unlawfully transferred, deprived of the
Ahmedabad charge of office, hence,* Yours faithfully,
M R A

Date

24-10-89 *urgency*

Advocate for the Petitioners

DD 23482
6
Recd on 6/11/89
23/11

SLE 491/88
23/10/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT AHMEDABAD

O.A. NO. 459 OF 1989

Balchandra S. Lolap Applicant.

vs.

Union of India & anor. Respondents.

I N D E X

Sr.No.	Annex.	Particulars	pages nos.
1.	-	Memo of appln.	1 to 13
2.	'A-1'	A copy of the promotion-cum-transfer order dt. 7.10.88.	14 - 15
3.	'A-2'	A copy of the order dt. 7.7.89 seeking to transfer the petitioner.	16
4.	'A-3'	A copy of the representation dt. 14.8.89.	17 - 18
5.	'A-4'	A copy of the representation made by the Union dt. 14.8.89.	19

Received copy
ym. Anand Shri
Chitton S. Shrivastava
Advocate.
Dt. 23-10-89

HVT
MAR 22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT AHMEDABAD

O.A. NO: 459 OF 1989

Between

Balchandra S. Lolap

64, Patel Nagar

A.K. Road, SURAT

.... Applicant.

And

1. Union of India

Notice of the petition to be

served to the Secretary
Department,
Railway ~~Ministry~~, New Delhi.

2. Divisional Railway Manager (E)

Bombay Central, Bombay.

.... Respondents.

Details of the Application:

1. Particulars of the Applicant:

- (i) Name of the Applicant : As above
- (ii) Name of father : Shamrao Lolap
- (iii) Designation and office
in which employed. : Electrical Signal Maintainer,
in the office of Respondent
No.2.
- (iv) Office Address : C/o Chief Signal Inspector
Surat Control Tower,
Surat.

(v) Address for service : As given in the title.
of all notices.

2. Particulars of the Respondents:

- (i) Name and/or Designation : As given in the
cause title
of the Respondents.
- (ii) Office address of the : As given in the
Respondents. title.
- (iii) Address for service : As given in the
of notices. cause title.

3. Particulars of the Order against which application
is made:

- (i) Order No: : No.E/Sig/839/3 Vol.VI
- (ii) Date : 7.7.1989.
- (iii) Passed by : Respondent no.2.
- (iv) Subject in brief : Frequent transfers of a
Scheduled Tribe Candidate.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter
against which he wants redressal is within the juris-
diction of the Tribunal.

5. Limitation :

The applicant further declares that the application is made within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case :

6.1. The petitioner is a citizen of India. The petitioner is an employee of the respondent no.1 - Union of India at present working as Electrical Signal Maintainer. The petitioner is a member of Scheduled Tribe. The petitioner is being harrassed by frequent transfers in violation of respondents own binding policy decisions against the frequent transfers in general and transfers of SC/ST candidates in ~~some~~ particular, which is to favour other employees at his cost as will be clear from the following facts:-

6.2. The petitioner started his service as apprentice in the year 1979. He was placed in the regular service in that very year. The petitioner, is thus being discharged his duties diligently and efficiently and to best of his ability and to the complete satisfaction of the superiors. He has never been punished, nor has he been subjected to any departmental enquiry. His services have in fact been appreciated and he has been appreciated in writing. The petitioner is still being harrassed by frequent transfers to protect the interest of some other employees and illegal occupation of the quarters.

6.3. The petitioner passed the trade test for promotion to the post of ESM-I which was held in the year 1986.

The petitioner was allowed to appear in the same as he was eligible in order of seniority. The result of the test was declared in the year 1987 and the petitioner was found successful in the trade test. Considering the petitioner's seniority and available vacancies he was due for promotion in the year 1987, but his promotion was withheld till July 1988 and he was promoted by memorandum dated 7.10.1988. It seems that his promotion was not liked somebody. At the time of his promotion the petitioner was working at Nandurbar in Maharashtra State. Upon promotion he was posted to Surat. A true copy of the promotion-cum-transfer order dated 7.10.88 is annexed hereto and marked Annexure 'A-1'. It may be noted that Annex. 'A-1' that the order at Annexure 'A-1' dated 7.10.88 was in accordance with the earlier order dated 21st September, 1988 whereby the petitioner was ordered to be posted at Surat. The order of 21st September, 1988 is also referred to in the order at Annexure 'A-1'. However, after the petitioner assumed duty at Surat, immediately after he had worked for a day he was transferred to Navsari. The petitioner then worked at Navsari for four ~~xx~~ six days and then again he was transferred back to Surat. The petitioner came back to Surat and again within less than nine months, the petitioner is

sought to be transferred from Surat to Bhesthan. The petitioner is shocked by this decision because it is in violation of the policy decision of the respondent authorities with regard to the transfers of SC/ST candidates. A true copy of the order dated 7.7.1989 seeking to transfer the petitioner from Surat to Bhesthan is annexed hereto and marked Annexure A-2.

Annex.'A-2'

✓ 6.4. The petitioner immediately personally went to see the higher authorities and pointed out that the action of frequent transfer orders are not only in violation of the decision of the Government but also unjust and unfair. To him as a low paid employee he cannot maintain two households. Besides as a ST candidate he cannot be transferred in this manner. The High Authorities under respondent no.2 (Senior Divisional Signal Telecommunication Engineer) told the petitioner that he will look into the matter, but the petitioner did not receive any immediate response. Ultimately, by his representation dated 14th August, 1989 addressed to the D.S.T.E.-B.C.T. the petitioner pointed out that he has been transferred in malafide manner to protect other persons who are occupying the quarters at Surat by sacrificing a Schedule Tribe candidate. The petitioner also named the persons who are being favoured in this manner. The petitioner pointed out that one Mr. Mansoor, E.S.M. was due for transfer, but if he were transferred, one Shri Bafna who is occupying the quarters of Mansoor would have to be vacated from the quarter. So to protect this unlawful game, Shri Mansoor was not being transferred though he was promoted and the petitioner was

being transferred without promotion, so much so that Mr. Mansoori has been kept at Udhna, Dt. Surat though there is no post of E.S.M. Grade I at Udhna which is the real post of Mansoor. The petitioner also pointed out that if Shri Mansoor is transferred to Besthan, no interest of the railway would suffer, except the unlawful occupation of official quarter by Shri Bafna would be in difficulty and this could ~~xxx~~ hardly be said to be a consideration in the public interest. The petitioner also pointed out that the local higher authorities were hand in glove with Shri Mansoor. He also pointed out that that there is a Government resolution dated 22nd November, 1977 against the transfer of SC/ST candidates which was being violated in his case when his transfer is so frequently done. The petitioner, therefore, requested that the illegal transfer may be cancelled. A true copy of the representation dated 14th August, 1989 made to the concerned authorities is annexed hereto and marked Annexure 'A-3'. The petitioner Annex. 'A-3' received no reply to this representation also. So the petitioner made further telegraphic and postal representation to the higher authorities on the line of his representation at Annexure 'A-3'. But the petitioner received no reply to the same also. The union of the petitioner also made a representation on behalf of the petitioner pointing out that though the petitioner is senior he is being harassed to favour one Shri Mansoor whereas the Government

Annex.A-4

policy requires that a ST candidate should be protected and as against that the petitioner is transferred thrice in one year. The union's representation also pointed out that the petitioner at heavy personal cost had arranged some private accommodation so that he can stay with family and now again he is sought to be transferred within a very short period. A true copy of this representation dated 14th August, 1989 is annexed hereto and marked Annexure 'A-4'. None of the representations, either by the petitioner, or by the Union succeeded in eliciting any response from the respondent authorities. The petitioner, therefore submits that he has no other remedy except to approach this Hon'ble Tribunal by way of this humble petition.

✓ 6.5. The petitioner submits that the impugned transfer order at Annexure 'A-2' is illegal, unconstitutional, vitiated by malafides and liable to be quashed and set aside. The sole reason for transferring him out of Surat is to accommodate one Shri Bafna, an illegal occupant of the quarters allotted to another E.S.M. Shri Mansoor. Such extraneous consideration renders the impugned action bad in law.

6.6. The petitioner submits that the Railway Board has laid down the policy decision by its policy decision dated 22nd September, 1977 that SC/ST employees should not be transferred out of their native places except to the place where the railway can provide them with quarters. It is further laid down in this policy decision that even in such cases the transfer should be as minimum as possible

and for very strong reasons. In the present case all these conditions are violated. The petitioner is not given quarters at Bhesthna. Secondly the petitioner is not being transferred for any strong administrative reasons but he is transferred to accommodate another person who is in illegal and improper occupation of the railway quarters. The policy decision of the Railway Board is of General All-India application and it thus has the force of rule of law. It is being violated and deviated from in the case of the petitioner without any rational and valid reason. Thus the impugned action is illegal, discriminatory, arbitrary and therefore violative of the fundamental right of equality under Article 14 and 16 of the Constitution of India.

6.7. The petitioner submits that it is a general policy decision of the Railway administration that an employee should be kept at one place for three to five years. This policy decision is available even to general class employees i.e. non SC/ST employees. The petitioner is denied even this protection and is transferred thrice in a period of nine months. Thus instead of getting greater protection as a ST candidate, he is sought to be shuttled whenever anybody is required to be accommodated.

Otherwise it is unheard that an employee can be transferred within a few days as it happened in the case of the petitioner when he was first transferred to Surat in October, 1988 and then transferred to Navsari and then again brought back to Surat and then again sought to be transferred from Surat to Besthan. This is clearly arbitrary, discriminatory, illegal and unconstitutional.

6.8. The petitioner also submits that the impugned action is also vitiated by mala fides. The petitioner submits that as held by the Hon'ble Supreme Court in the case of B. Varadha Rao the power to transfer must be "exercised honestly, bonafide and reasonably. It should be exercised in the public interest. If the exercise of power is based on extraneous consideration or for achieving an alien purpose or an oblique motive it would amount to mala fide and colourable exercise of power. Frequent transfers, without sufficient reasons to justify such transfers cannot but be held as malafide. A transfer is malafide when it is made not for professed purpose as it is in the normal course or in public or administrative interest or in the ~~xxxxx~~ exigencies of service but for other purpose than to accommodate another persons for undisclosed reasons. It is the basic principle of rule of law and good administration that even administrative action should be just and fair". Every single principle laid down by the Hon'ble Supreme Court in the above mentioned declaration of law is violated by the respondent administration. It is clear that the transfer is to accommodate another employee and in direct and flagrant violation of the transfer policy of the Railway Board itself.

Such an action is clearly vitiated by malafides. This is more clear from the silence of the respondent authorities. When the petitioner and the Union pointed out the true facts by their representations at Annexure 'A-3' and 'A-4' no response is given and very specific complaint of improper consideration in transferring the petitioner is completely ignored. The silence speaks eloquently of the malafides of the respondent authorities. The impugned action is thus bad in law and liable to be quashed and set aside.

6.9. The petitioner submits that the impugned action is punitive as no class III employee can maintain two households particularly when he is sought to be transferred so frequently. Secondly the petitioner is newly married person. His wife works as primary teacher at Baroda, and her post is not transferable and still the petitioner is transferred so frequently without any rational or valid reason. This also clearly shows the extraneous considerations that have coloured the impugned action.

7. Reliefs Sought :

On the grounds stated hereinabove and those that may be urged at the time of hearing, the Hon'ble Tribunal may be pleased to :

- (A) To treat the impugned transfer order at Annexure 'A-2' illegal, null, void without jurisdiction and of no effect whatsoever.

(B) To permit the petitioner to resume his duty at Surat in the post of E.S.M.-I and pay him the back wages and all other consequential benefits.

(C) Any ~~o~~ other appropriate relief or remedy deem just and proper by the Hon'ble Tribunal in the facts and circumstances of the case.

8. Interim relief, if prayed for :

admission and
Pending/final hearing and disposal of this application, the Hon'ble Tribunal may be pleased to suspend the impugned order at Annexure 'A-2' and stay the further implimentation and operation of the same.

9. Details of the remedies exhausted. :

The applicant declares that he has ~~made~~ availed of all the remedies available to him under the relevant rules by making representations to the concerned authorities as mentioned in the facts of the case, hereinabove.

10. Matter not pending with any other Court, etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Hon'ble Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of Application Fee :

1. No. of Indian Postal Orders : 23482
2. Name of the Issuing Post office : High court P.O. Abot
3. Date of Issue of Postal Orders : 12-10-89
4. Post office at which payable : High court P.O. Abot

12. Details of Index :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures :

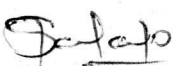
1. Annexures A-1 to A-4 as mentioned in the index.
2. Vakalatnama.
3. IPOs. in respect of the Application fee.

VERIFICATION

I, Balchandra S. Lolap, Son of Shamrao Lolap working as Electrical Signal Maintainer under respondent no.2 authority, do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Ahmedabad.

Date : 23-10-89


Signature of the Applicant.

Balchandra S. Lolap

A-1

14

WRP, MX. 61/05/169/0; 11-56, 50, 00, 100.

प. र. W. R.

जो 10 वीं G 29 B

संख्या No. E/Sig/839/NDB दिनांक Dated. 07.10.19.88
 प्रेषक From. CSI NDB. सेवा में To CSI ST ✓

विषय Sub: Promotion, Reversion and Transfers of N.G. staff - Signal Wing.

संदर्भ Ref: DRM(CE) BCT's letter No E/Sig/839/3 Vol VI of Dated. 21.7.87
 -X-X-X-

In reference to the above
 SHRI B. S. Lolap ESM G2 D (E) NDB is
 hereby relieved today B.N. to carry out his
 transfer on promotion as ESM G2 I scale
 Rs. 1320-2040(RP) at yards. [CSI ST]

His wages for the month of ~~Oct~~
 SEPT. OCT 88 [21.9.88 to 20.10.88] + Bonus P.L.B.
 drawn by this office.

His presentee from 07.10. to 20.10.88
 maintained at yards. Will be adjusted A.P. Wage period
 as per attendance.

His leave record & other particulars will follow.

C/- DRM(CE) BCT
 ASTEC BL

For information please.

संकेत प्रिंटर/संकेत प्रिंटर प. र.
 SIGNAL UNIT IN CHARGE
 NANEU. BAR. W. RLY.

Four copy
 M.R. it was
 Acl

P. C. W. R.

जा एत 19 ए GL 19 A

15

संख्या No. E/S/839/51/3 दिनांक Dated. 7. 10. 1988.

प्रेषक From. CSE सेवा से To. SE HNS

विषय Sub Promotion. Rev. 28000. And Tel. of HNS

Ref. D.R.M. E. HNS. Letter No. E/S/839/51/3

vi clt 21.7.82

2 CSE HNS's letter No. E/S/839/HNS clt

4.10.82.

With Ref to the above

Shri B.S Lalap Esm of CSE HNS has
expressed his desire as a Esm in
Scale 1320-2040(RP) to draw BH. i.e
7.10.82

He has direct to express desire
at your end on 4.10.82 BH. as a
Esm. Clt HNS vide No. 18.5

This is for your information & HNS.

COPT

To

CSE - HNS

for information.

मुख्य सचिव निदेश
सूच (प. र.)
CHIEF SIGNAL INSPECTOR
SIGNAL (W. SGT)

Trs copy
M. K. Anwar
He

A-2

16

No.E/Sig/839/3 Vol.VI

MEMORANDUM

IRM's Office, BCT
Dt. 7 -7-1989.

The following posting orders are issued with immediate effect.

2. Shri B. S. Lolap, ESM-I scale Rs.1320-2040(RP) at ST is transferred and posted at BHET on the same scale and rate of pay.
3. Shri B. S. Mehta, ESM-I scale Rs.1320-2040(RP) at MSP is transferred and posted at BSR-MRI on the same scale and rate of pay.
4. Shri Narayan Swamy Rajendran, ESM-I scale Rs.1320-2040 (RP) at BSR is transferred and posted at MIRA Road on the same scale and rate of pay.

The charges may be advised to this office immediately.

This has the approval of competent authority.

for IRM (E) - BCT

C/- CSI BVI, ST, ASTE(S) BL, Sr.DSTE(II)-BCT
Sr.DAO BCT,
HC E/PB(Sig), Folio, S/Sheet
The Divl. Secy., WRMS-BCT & WREU-GTR

for copy
M.R. Anand
He

A-3 17

From: B.S. LOLAP E.S.M.I.
C/o CSI-ST.

Date: 14/8/88

To

SR. D.S.T.E. BCT
C/ DRM - BCT.

Through: CSI-ST.

Sub: Request for Retain me at ST RRI Only.

Ref: DRM(E) BCT's Letter No. E/Sig/839/3/Vol.VI
Dt. 7.7.89.

Respected Sir,

With reference to your above, it is advised that I have been transferred from NOB-ST vide DRM(E) BCT's letter No.E/Sig/839/3Vol VI dt. 21.7.89 on 7.10.88 as a E.S.M.I. in scale 1320-2040(RP) after ward CSI-ST has been directed to me under SI-NVS vide CSI-ST's letter No.E/Sig/831/ST/3 dt.7.10.88 vide Shri Nandlal R. MCF/NVS and I had worked upto 3 days at NVS after wards I have been transferred at ST-RRI.

It is proved that I have been transferred from NDB-ST and T-NVS and against NVS-ST on malafied intention

This games is playing by CSI ST and ASTE(S) BL to save theirs OWN persons at ST who are occupied Rly Quarter out of way at ST.

The History of said Matter are as under:

1. Shri H.A. Mansur E.S.M. RRI-ST has been occupied Rly. Quarter No.194-B at Surat on 19-6-87 and the same Quarter has been changed with Shri G. Shivraj SI-RRI-ST for favouring at Shri U.C. Bafna SI-RRI-ST and Shri U.C. Bafna is SI-RRI staying illegly in Rly. Quarter No.of 63/E-ST.
2. Shri H.A. Mansur has been promoted as a E.S.M.I. in scale 1320-2040 vide DST.E(E) letter No.E/Sig/839/3/Vol.V and he has been Reported his duty as a ESM.Gr.I on 21.08.88. But there is no vacancy of ESM.I at UDN. However he has been kept at UDN up to till date as ESM Gr.I.

Contd...2.

18

Shri H.A. Mansur is too Junior than me in Scale 1320-2040 in CST-ST and there is no vacancy at ESM. I at UDN. Why Shri H.A. Mansur - Not Transfer at BHET. The said Reason is there that Shri U.C. Bafna SI-RRI is staying in his Quarter. Therefore A.STE(S) BL and CST-ST are playing this games for my transfer to save Shri H.A. Mansur and Shri U.C. Bafna SI-RRI-ST.

How ever ~~Shri~~ Shri H.A. Mansur has been allowed make up and down from BL to ST and why CSI-ST and AST E(S) BL has been asked his explation for making up and down if there is no need of quarter why shri H.A. Mansur has not vacated the Rly. Quarter. It is prove that CSI ST & ASTE (E) BL is given full backing to Shri H.A. Mansur illegally.

I am member of S/T there is order of Rly. Board that SC/ST Rly. Employees should not be Transferred from one place to another place.

You are requested that this malafied illegal transfer may please be treated as cancelled obliged me if any wrong with me I will nock the door court for correct justification.

This is for your information & necessary action please.

Yours Obedient,

Shri H.A. Mansur
ESM - ST
14.08.89

Adv.copy:
D.R.M.(E) BCT
...for information.

QC

d on 14/8/89 and send 3 Copies to CSI-ST office
Post

True copy
M. K. Mahan
Aor

A-4

19

D.O. 5/8/89

14/8/89.

Dear Shri. Ghosh.

Sub:- Harassment to SC/ST Employees in Signal Department.
.....

Off late there have been frequent incidences of harassment to SC/ST employees under Sr.DSTE II - BCT by dislodging the employees violating all rules & regulations.

One of such wrong doing was set right due to your intervention viz Name of Shri.V.G.Warnik SI-ROC/BCT. One more case of harassment is quoted below. This time it a ST employee. Shri.B.S.Lolap ESM-NDB was promoted to ESM Gr.I and transferred to ST. Though this unions requested to shift a post of Gr.I to NDB it was rejected and employee of was forced to shift to ST. From ST the employee was sent to NVS and with in three days again back to ST. Now recently vide DDM(E) BCT No. E/Sig/839/3 Vol.VI dated 7/7/89, this employee is transferred to Bhestan from ST. Thus within one years time the employee being dislodged twice for no fault of his. It is pointed out here that at Bhestan post have been newly created and junior employee should have been normally transferred to this post. But the junior Shri.M.A.Mansur is retained as he has Railway Quarter in which one Shri.Bafna SI/ST is staying and not the allottee.

It is submitted that Shri.Lolap has arranged some private accomodation after investing some money as ST. By transferring him to Bhestan (Non. HA/CA Area) at this stage will lead to financial hardship.

In view of above I request you to consider following points: Viz;

- 1) Employee belongs to Scheduled Tribe and such has right to remain at the station.
- 2) Junior to the employee Shri.B.M.Mansuri retention ignoring the seniors.
- 3) According to adopted policy junior employee should be shifted to Non- HA/CA Area.

And set aside transfer order issued by Sr.DSTE II - BCT.

With regards,

Yours Sincerely,

(M.V.Malgi)

Shri. R. K. Ghosh.
ADRM(G) BCT.

.....

True copy
M.R. Anan
Ad

b1c

2.

... Applicant

... Respondents.

Union of India & Ors.

Recd corn
Sub to Ad ship
Princal collect
to Mr M. L. Howard
2

18/12/89

18/12/89

- PMU

Without prejudice to the above submissions the facts of the case are dealt with parawise as under:-

3. With reference to para 6.1 & 6.2 it is submitted that what is mentioned therein as regards service particular and caste of the applicant are not disputed. It is denied that the applicant has been transferred to favour other employees at his cost. It is denied that the applicant is being harrassed by frequent transfers

in violation of Respondents own binding policy decisions. It is submitted that in view of the submissions made in para 1 and 2 hereinabove applicant is liable to be transferred any where in the interest of administration. The contention of the applicant that he is harrassed by frequent transfers is denied.

4. With reference to para 6.3 as regards promotion of the applicant to the post of Electric Signal Maintainer (ESM) Grade I scale Rs.1320-2040 (RP) it is submitted that the applicant appeared for the trade test for promotion to the post of ESM I on 18.6.87 and not in the year 1986. He was declared passed vide notification dt.8.7.87. Consequent upon his passing the said trade test he was promoted to the post of ESM I and transferred from Chief Signal Inspector, Nandurbar (CSI NDB) to CSI ST. Due to administrative difficulties he could be relieved on 7.10.88 by CSI NDB to report to CSI ST. It is denied that the applicant was transferred from Surat to Navsari. It is submitted that under CSI ST there are different units and Navsari is one such unit under the control of CSI ST. It is submitted that in the exigencies of service applicant was deployed for 3 days from the Surat unit to Navsari unit. It is therefore submitted that deployment of the applicant to Navsari was not a transfer. It is submitted that with due approval ~~th~~ of the competent authority transfer order dt. 7.7.89 (Exhibit A-2 to the application) was issued by which applicant has been ^{posted} ~~transferred~~ from Surat to Bhestan. It is submitted that SC/ST employees in terms of extant orders

- 3 -

should not be transferred from their districts as far as possible. It is submitted that in the instant case applicant was working at NDB. On his ~~xx~~ successfully passing the trade test he was to be promoted to the post of ESM I. Since at the relevant time there was vacancy of ESM I only at Surat, applicant was promoted to the post of ESM I & transferred from Nandurbar to Surat. As stated hereinabove as regards different units under CSI ST it is submitted that Bhestan is also one of the units like Navsari under the control and jurisdiction of CSI ST. It is therefore submitted that shifting of the applicant from Surat to Bhestan can not be termed as transfer. It is pertinent to note that in the original order dt. 21.7.87 of promotion of the applicant it was mentioned that the applicant is transferred on promotion and posted under CSI ST. It is further pertinent to note that posting of applicant at Bhestan station was done in order to facilitate him with the railway accommodation which was only available at Bhestan station at the relevant time.

5. With reference to para 6.4 it is submitted that the applicant had seen the competent authority in person which has advised the applicant to carry out the transfer first to Bhestan then his request would be looked into. As regards representation of the applicant dated 04.8.89, it is submitted that the same is under consideration and in that connection some clarification are being sought from other offices at Bulsar and Surat. It is pertinent to note that applicant in the personal hearing with the competent authority has expressed that he has no family problems. It is therefore denied

- 4 -

that applicant has to maintain two households. It is denied that the applicant has been transferred in malafide manner to protect other persons who are occupying the Rly. Qr. at Surat. It is denied that Shri Mansoor was due for transfer. It is denied that Shri Bafna was occupying the quarter of Shri Mansur. As such there is no unlawful game. Shri Bafna has recently asked for sharing accommodation with Shri Mansoor vide his application dt.5.8.89 which has been considered and granted permission from 14.9.89. It is submitted that, Shri Mansur was working at Udhna. there is no question of his promotion & transfer whereas the applicant was promoted & transferred from NDB to ST under CSI ST who is holding sub units at Amalsad, Ancheli, Vedcha, NVASARI, MAROLI, SACHIN, BHESTAN, UDHNA & SURAT & since there was vacancy at Bhestan, the applicant was posted at Bhestan. It is denied that, there is no post at Udhna. It is submitted that, there are three posts of ESM I at Udhna & Shri Mansur was occupying one of the said posts. As regards transfer of Shri Mansur to Bhestan, it is submitted that as stated herein above, Shri Bafna was not occupying quarter of Shri Mansur at Udhna, at the relevant time. It is denied that, the local higher authorities were hand in ~~glove~~ gloves with Shri Mansur. It is submitted that, since the applicant was transferred under CSI ST who was having different ^{units} ~~subunits~~ as mentioned above, the applicant can be posted ^{to any sub unit} in order to run the efficient working of Signal Maintenance. It is therefore submitted that the transfer is not illegal. The representation of the Union is under consideration and the clarifications in the matter are being sought. It is submitted that there is no harrassment in view of the fact that the distance from ST to Bhestan is only nine Kms.

and posting at UDN or Bhestan would not make any difference. It is therefore denied that, any favouritism is done to Shri Mansur. It is denied that, the applicant is transferred thrice in one year. It is submitted that the applicant was initially transferred from NDB to ST & then from ST to Bhestan i.e. on 7.10.88 & 7.7.89 respectively. It is submitted that in view of the fact that Bhestan & Hdhna are the ~~subunits~~ sub units under CSI ST, the applicant has made out no case to approach this Hon. Tribunal.

6. With reference to para 6.5 it is submitted that the contentions made by the applicant are denied in view of the submissions made in foregoing paras.

7. With reference to para 6.6, it is submitted that the Railway Board's letter dt. 22.9.77 lays down ~~the policy decision and~~ that, no policy decision of the Railway Board are violated. The applicant can be given a quarter at Bhestan provided he resumes duty at Bhestan and makes an application for the same. Since Bhestan is one of the units under CSI ST and vacancy being available there, the applicant is posted at Bhestan.

8. With reference to para 6.7 it is submitted that there is no such principles laid down for periodical transfers for the categories in signal & Telecom.deptt. The rest of the contentions are denied.

9. With reference to para 6.8, it is submitted that, what is mentioned therein are the legal submissions which will be ~~transferred~~ traversed at the time of hearing.

10. With reference to para 6.9, it is submitted that, the action of the respondents is not punitive in view of the fact that, he has no family problems as

10. The Respondents deny all the allegations explained by him to the competent authority.

11. The Respondents deny all the allegations, contentions and submissions of the applicant which are contrary to and/or inconsistent with what is mentioned hereinabove and submit that the applicant has made out no case. He has no cause of action.

12. In the premises stated hereinabove the Respondents pray that the application may please be dismissed with cost.

R. M. Vin
Advocate for Respondents

For and on behalf of
Union of India & Ors.

Place: Bombay.

Dated: 15-12-1989.

Meed
Addl. Divisional Railway Manager,
Western Railway, Bombay Central.

VERIFICATION.

I, W.H. Sanzgiri, Assistant Personnel Officer, Western Railway, Bombay Division, having my office at Bombay Central do hereby verify that what is stated hereinabove are true facts gathered from the official record and upon legal advice and I believe the same to be true and correct.

W. H. Sanzgiri

Place: Bombay.

Dated: 15-12-1989.

Assistant Personnel Officer,
Western Railway, Bombay Central.

(R.M. Vin)
Advocate for the Respondents.

Reply/Rejoinder/written submission
filed by M. ...
learned advocate for petitioner/
respondent with second ...
copy served/not served to other side

07-20/12/89 Dy. Registrar ...
Mad Bench

mno. 96/9.

19/3/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

M.A./O.A./T.A./

16

1981

in of 459/89

Union of India & Co

Applicant(s).
(in Respondent)
Adv. for the
petitioner(s).

Rmvin

Versus

Balchandra S.

Respondent(s).
(in Applicant)
Adv. for the
Respondent(s).

M A Anand

SR.NO. DATE.

ORDERS.

Vacating stay

(Kondarkar to serve)

23/9/81 p/o

11.12.81 p/o

9/10/81 FH

2/12/91 FH

7/05/92 FH

~~24/1/92 FH~~

21/5/92 FH

Regular in A.O.O. 1986 on aspect
can add 21/1/92.

Disposed of on 21/1/92

gac/

CENTRAL ADMINISTRATIVE TRIBUNAL

AMMADABAD, PENCH

AMMADABAD

Submitted :

C.A.T./JUDICIAL SECTION.

Original Petition No.:

OF

Miscellaneous Petition No.:

OF

Shri

Shri 2 Inds & Co.

Petitioner(s).

Versus.

Respondent(s).

Shri

R.M.V.

This application has been submitted to the Tribunal by

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned

in the check list in the light of the provisions contained in

the Administrative Tribunal Act, 1985 and Central Administrative

Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given

to concerned for fixation of date.

The application has not been found in order for the reasons

indicated in the check list. The applicant may be advised to

rectify the same within 14 days/draft letter is placed below

For signature.

Verification clause not made

Asstt.

S.O.(J)

D.R. (J)

In my issue of leave

21/5

Asstt.

28/5

28/5

41090/-

28/5

28/5/91

28/5/91

msl- 96/91
17/2/91

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD

M.A.No. 16 of 1991
in
e.A. 459 of 1989.

1. Union of India
2. Divisional Railway Manager(E)
Western Railway
Bombay Central Division,
Bombay Applicants

V/s.

Balchandra S
Lolap
64, Patel Nagar,
A.K.Road, Surat Opponent.

The humble application of the
applicants above-named:

MOST RESPECTFULLY SHEWETH:-

1. In the above matter the opponent(Original applicant) has obtained an interim stay against his transfer order dated 7.7.89 Annex.A-2 till further orders.
- 2... Since the opponent is retained at Surat due to the interim stay, the situation at Bhestan

The other side
will be
served with
a copy
R. M. K.
19/3/91

where the opponent is ordered to be transferred is managed with a shortage of staff. The post in question being a safety post, the Railway Administration suffers grave and irreparable injury and inconvenience. It is therefore urgently necessary to vacate stay.

3.... The applicants therefore pray:-

- (A). that ~~this~~ application be allowed.
- (B). that the interim stay against opponent's transfer order dt.7.7.89 be vacated .
- (C). that such other and further relief be granted as may be deemed just and proper in the facts and circumstances of the case.

And for this act of kindness and justice, the applicants shall ever pray.

Ahmedabad)

Dt. 19-3-1991)

Advocate for Applicants

Filed by Mr. *Rm Vin*
Learned Advocate for Petitioner
with second set & spares
copies copy served/not served to
other side

Dt. 19/3/91 For Dy. Registrar C.A.T.(J)
A'bad Bench

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

No.: RA/MA/
in/with
TA/OA/
MA/OA Stamp No. 96/91

5th Floor, BD Patel House,
Near Sardar Patel Colony,
Post Navjivan, Naranpura,
Ahmedabad-14.

Date :- 21-5-91

To,

Amum

Sub:- Removal of defects.

Application No.:

96/91

Between

W. S. J.

Applicant(s)

and

Bulchandra S

Respondents

Sir,

Please remove within 14 days, following defects marked '1' in the above mentioned application filed by you, failing which necessary action will be taken by this office under sub-rule 4 of rule 5 of Central Administrative Tribunal (Procedure) Rules, 1987.

ISSUED

Date 31-05-91

Sign ccccc

Deputy Registrar(J).

Defects :

1. Application is not in prescribed form/not served to otherside.
2. Applications is not on (green) thick paper of good quality.
3. The application is not in following two compliations :
 - 1) Application alongwith impugned order(s).
 - 2) All other documents and annextures referred to in application in paper book form.
4. Though the number of petitioners is more than one, a request for permission for filing joint application is not made.
5. Though the application is a joint application filed by any association, it does not disclosed the class/grade/category of persons on whose behalf it has been filed and/or at least one affected person has not joined the application.
6. Looking to the number of respondents, _____ extra copies are wanting.
7. Though the number of respondents exceeds five necessary process fee is not paid.
8. Addresses of petitioners/respondents are incomplete.
9. Respective column(s) regarding jurisdiction/limitation/non-pondancy before other court/exhaustion of remedies is (are) not filed in/not properly filed in.
10. Column no. _____ of prescribed form of application is not filed in/is incomplete.
11. The application is beyond time by _____ day.
12. Sufficient cause for not making the application within the x period of limitation, has not been filed.
13. An application is not accompanied by prescribed fees.

(Contd...2...)

14. Index of documents ~~has not been filed~~/has not been properly prepared.
15. Paging has not been done properly/tally with Index.
16. Annexures should be serially marked as A-1, A-2, A-3 and so on, and should be accordingly shown in Index.
17. Paging number is not given in petition/sets supplied as per method of paging.
18. Date of annexure _____ does not tally with the Index.
19. Application and Vakalatnama Patra is not signed by the Advocate and all the party.
20. Necessary verification at the bottom of the application is not executed/is incomplete/is not signed by the party.
21. Affidavit/Verification is not duly sworn before a competent authority.
22. Thumb impression of the applicant on application/verification/Vakalatnama Patra is not identified.
23. Copies of the following documents are not filed/are not attached as True Copies. :
 - 1.
 - 2.
 - 3.
 - 4.
 - 5.
24. Page No., Annexure No. _____ is/are not legible.
25. The documents of authorisation/Vakalatnama Patra has not been filed/stamped.
26. Second Set/Extra Copies are not filed/are defective as under:
27. File size envelope(s) bearing full address(es) of the Respondents has/have not been filed.
28. The application is based on more than one cause.
29. The copy of Job Card/Appointment Order is not filed.
30. Copies of reference, referred in the petition i.e. reference/citations/circulars, Orders instructions/Decisions etc. are not supplied.
31. Union of India not joined as a party.

ORIGINAL TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

NO.: MA /89

in/with
MA/OA/
MA/OA Stamp No. 96 / 91

5th Floor, BD Patel House
Near Sardar Patel Colony,
Post Navjivan, Narayan
Ahmedabad-380 014.

Date : 20.8.91

To,

Shri A M Vin
Advocate

Sub.: 201 Applicant.

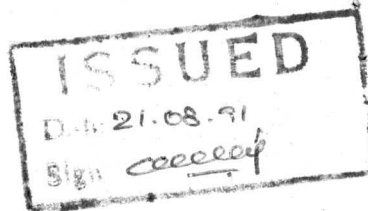
V/s.

Isolchander S.

Respondent.

Sir,

In continuation of this office letter of even no. dated 21.5.91 regarding office objection in the application filed by you, take notice that if you do not remove the office objection within 15 days from the date of receipt of this letter, your application will be filed without registration.



Yours faithfully,

g. Gaur
DEPUTY REGISTRAR(J).
C.A.T., AHMEDABAD.

GAC/-.

ck 3

Re. Removal of objection
on M.A. No. 96/91

in
O. A. 459/89.

I submit that no verification is necessary because in the common applications Nos. (Applicants in this M.A.) have filed their statement on verification. This M.A. for vacating stay is based on the contents of the written statement which is duly verified. No verification therefore is necessary.

In case the office does not accept this clarification the matter be placed before Tribunal for necessary orders.

R. M. Veri.

Advocate
for applicants in
M.A.

29.8-91

Central Administrative Tribunal
IN THE HIGH COURT OF GUJARAT
AT AHMEDABAD

O - A

No.

of 1989.

Balchandra S. Lolop

Appellant
Applicant

(Original)

V/S

Union at Fudra

Respondent
Opponent

(Original)

I/We abovenamed Applicant do hereby appoint SHRI MAHENDRA R. ANAND, Advocate and SMT. ~~NIBHA M. ANAND~~, Advocate for me/us the above named _____ to file this _____ to act, appear and plead for me/us in the above matter and in all proceedings that may be taken in respect of any application connected with the same or any application for Review, to file and obtain return of documents, to accept the process of the Court and to deposit and receive money on my/our behalf in the said matter and in applications for Review and to compromise, settle and/or withdraw or to agree to the withdrawal of the said matter or any proceedings arising therein to represent me/us and to take all necessary steps on my/our behalf in the above matter, to ask another Advocate to hold this brief on my/our behalf if required and to do all things incidental to such acting for me/us, I/We agree to ratify all acts done by the aforementioned ADVOCATE in pursuance of this authority.

In witness whereof I/we do hereby set my/our hand.

This 23rd day of Oct 1989.

ACCEPTED

M R Anand
MAHENDRA R. ANAND

B. Com; LL. B. (Guj.),
LL. M. (Berkeley, U. S. A.)
ADVOCATE

SMT. NIBHA M. ANAND

B. A., LL. B.
ADVOCATE

Office:

B-6, Bimal Apartments (B-Type)
Opp. Azad Society,
AHMEDABAD - 380 015.
Phone : 448255

Residence :

B-3, Subhadranagar Society,
Swastik Char Rasta,
Nr. Milan Park, Navrangpura,
AHMEDABAD - 380 009.
Phone : 450710

Balchandra Shamrao Lolop
X
APPELLANT(S) PETITIONER(S)
~~RESPONDENT(S) OPPONENT (S)~~

NOTICE AFTER ADMISSION

WITH INTERIM RELIEF

JUDL-I

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH, AHMEDABAD.

B.D. PATEL HOUSE,
NR. SARDAR PATEL COLONY,
P.O. NAVJIVAN,
AHMEDABAD- 380 014.

Issued on the 18th day of December 1989.

REGN. NO. O.A/ 459 / 1989.

Shri Balchandra S. Lolap

APPLICANT (S)

ADV. MR.

M.R. Anand

V/s.

Union of India & Ors.

RESPONDENT (S)

ADV. MR.

N.S. Shevde

TO,

01. Union of India, through: The Secretary, Railway
Department, New Delhi.

02. Divisional Railway Manager (E), Western Railway,
Bombay Central, Bombay.

Whereas Shri Balchandra S. Lolap, applicant,
had made an application under Section 19 of the Administrative
Tribunals Act, 1985, to this Tribunal. And also prayed for
interim relief (~~Copy alongwith relevant annexures enclosed~~)
hearing Regn. No. OA/ 459 / 1989 .. and whereas the
same matter is put up for hearing on 18.12.1989. The
Hon'ble Tribunal has passed the order as mentioned below.*

Whereas the Tribunal is of opinion that a reply of
the application is called for :

1. That you, Respondent No. 1 & 2 do file three complete
sets of the duly verified reply to the application,
alongwith documents in a paper-book from by 15 days
2. That you should simultaneously endorse a copy of the
reply alongwith documents as mentioned at S.No. (1)
above to the application.
3. You are also directed to produce the record(s) noted
below for the perusal of the Hon'ble Bench of the Tribunal
on the date fixed for hearing.



- (I)
(II)
(III)

4. The above application has been fixed for hearing on 25/1/90 at 10.30 A.M. However, the application for **25.01.1990** interim relief has been fixed for hearing on 25/1/90 at 10.30 A.M. Should you wish to **25.01.1990** against the issue of interim order, you are at liberty to do so on 25/1/90 or so any other date to which the case may be adjourned, either in person, or through an advocate appointed by you for this purpose. **25.01.1990** Also take notice that in default of your appearance on the date fixed, the case will be heard ex-parte.

5. A copy of the order Dated 18/12/89 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad is typed overleaf for immediate compliance/**18.12.1989** information/necessary action.

WITNESS the Hon'ble Vice Chairman, Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad this _____ day of _____ in the year 19 _____.

December

89

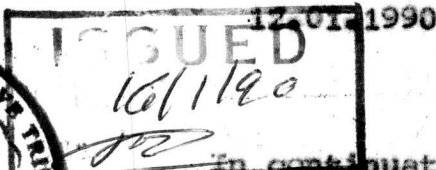
10th

DATE : _____

olc
P.S.
12/01/90

DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

12/1/90



In continuation of Notice dated : 29.11.1989
ORDER PASSED ON : 12.12.1989

• Mr. Hemant Thakore for Mr. M.R. Anand, learned advocate for the petitioner present. Mr. N.S. Shevde, learned advocate for the respondent requests for 15 days time to file reply. Allowed. Interim relief earlier granted to continue until further orders.

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
(RAILWAY BOARD)

No. E (G) 90

LL3— 9(240)

New Delhi, Dated 19-1-1990

To,

The Registrar, Central Administrative Tribunal,

Ahmedabad

Sub :—

OR NO. 459/89

Sh. Balchandra S. Lolap

Sir,

I am directed to refer to your summons/orders dated 18-12-88 on

the subject mentioned above and to state that the General Manager..... Railway
is the competent authority to deal with this matter. The summons/orders in
question have, therefore, been sent to that authority for further necessary action.

Yours faithfully,

[Signature]

for Secretary, Railway Board.

DA : Nil.

No. E (G) 90

LL3-9

New Delhi, Dated 19-1-1990

Copy together with the summons/orders received from the Tribunal/ Court are
forwarded in original to the General Manager..... Railway
for further necessary action.

The next date of hearing is.....

[Signature]
25-01-90

DA/As above.

I.B. Press. July-89. 10,000 F.

Desk Officer, Establishment,
Railway Board.

भारत सरकार
रेल मंत्रालय (रेलवे बोर्ड)

ई.जी-3

सं. ई. (जी.) 9

एल. एल. 3-

नयी दिल्ली, दिनांक 19

सेवा में,

रजिस्ट्रार, केन्द्रीय प्रशासनिक अधिकरण,

विषय :-

महोदय,

उपर्युक्त विषय पर आपके तारीख के सम्मन/आदेश के सम्बन्ध में मुझे यह सूचित करने का निर्देश हुआ है कि महाप्रबन्धक रेलवे इस मामले को निबटाने में सक्षम प्राधिकारी हैं। इसलिए विचाराधीन सम्मन/आदेश आवश्यक कार्रवाई हेतु उन्हें भेज दिये गये हैं।

भवदीय

संलग्न : कुछ नहीं।

कृते सचिव, रेलवे बोर्ड

सं. ई. (जी.) 9

एल. एल. 3-

नयी दिल्ली, दिनांक 19

अदालत के सम्मन/आदेशों सहित एक प्रति महाप्रबन्धक, को आवश्यक कार्रवाई हेतु अग्रेषित।

इस मामले में सुनवाई की तारीख है।

संलग्न : कुछ नहीं।

डैस्क अधिकारी, स्थापना,
रेलवे बोर्ड.

NOTICE AFTER ADMISSION

JUDGE - I

CENTRAL ADMINISTRATIVE TRIBUNAL

B.D. PATEL HOUSE,
Nr. Sardar Patel Colony,
Ahmedabad-380 014.

Issued on 6th day of November 1989

REGN. No. CA / 459 / 1989

Shri Balchandra S. Lolap

APPLICANT (S)
ADM. MR. M.R. Anand

V/s.

Union of India & Ors.

RESPONDENT (S)
ADV. MR. N.S. Shevde

To,

01. Union of India, through: The Secretary,
Railway Department, New Delhi.
02. Divisional Railway Manager (E),
Western Railway, Bombay Central,
Bombay.

Whereas Shri Balchandra S. Lolap applicant (s) had made an application under section 19 of the Administrative Tribunals Act, 1985 in this Tribunal (Copy along with relevant annexures enclosed) bearing Regn. No. CA / 459 / 1989 and when the same is put up for hearing on 06.11.1989 the Hon'ble Tribunal has passed the order as mentioned below.

Whereas the Hon'ble Tribunal is of the opinion that a reply to the application is called for.

IT IS HEREBY ORDERED:

1. That you respondent No. 1, & 2 do file three complete sets of duly verified reply to the application alongwith documents in a paper-book form with the Registry of the Tribunal within 15 days of the service of this notice.
2. That you should simultaneously endorse a copy of the reply alongwith documents as mentioned at S.No. (a) above, to the counsel for the applicant(s).

////// ORDER PASSED ON : 06.11.1989
Stricke if not applicable.

Heard Mr. M.R. Anand and Mr. N.S. Shevde, learned advocates for the applicant and the respondents respectively. Mr. Anand states that the petitioner is ~~expendix~~ scheduled tribe member and had to accept a number of transfers in the past without being provided any quarter and his spouse who is working as a primary teacher from whom he will be parted. The case be accordingly admitted and notice for interim relief be issued for reply within 15 days. The case be posted on 29.11.1989 for further direction and interim relief.



3. You are also directed to produced the records noted below for the perusal of the Hon'ble Bench of the Tribunal on the date fixed for hearing.

(I)

(II)

(III)

4. The above application has been fixed for hearing on ~~29.11.88~~ 29.11.1989 at 10.30 A.M. should you wish to appear, you are at liberty to do so on the date fixed, or any other date to which the case may be adjourned either in person or through the advocate appointed by you.

5. Also take notice, that in default of your/appearance on the date fixed, the case will be heard/proceeded ex-parte.

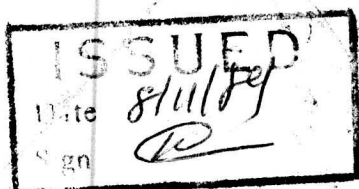
WITNESS the Hon'ble Vice Chairman, Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad, this is the 5th day of November in the year 19 89.

DATE:

07.11.1989

CR/m
DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.



NOTICE AFTER ADMISSION
WITH INTERIM RELIEF
JUDL- I

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

B. D. PATEL HOUSE,
NR. SARDAR PATEL COLONY,
P.O. NAVJIVAN,
AHMEDABAD- 380 014.

Issued on the _____ day of _____ 1987

REGN. NO. OA/ ~~3011~~ / ~~November~~ 1987 ~~39~~

459

APPLICANT (S)
ADV. MR.

Shri Balchandra S. Ldap

RESPONDENT (S)
ADV. MR.

To, Union of India and others

1. Union of India, through
The Secretary, Railway Department,
New Delhi.
2. Divisional Railway Manager(E),
Western Railway, Bombay Central,
Bombay.

Whereas Shri _____, applicant,
had made an application under Section 19 of the Administrative
Tribunals Act, 1985. Balchandra S. Ldap And also prayed for
interim relief (copy alongwith relevant annexures enclosed)
hearing Regn. No. OA/ _____ 198 , and whereas the same
matter is put up for hearing on _____. The Hon'ble
Tribunal has passed the order as mentioned below.*

29-11-1989.

Whereas the Tribunal is of opinion that a reply of
the application is called for :

1. That you, Respondent No. _____ do file three complete
sets of the duly verified reply to the application
alongwith documents in a ~~1~~2-book from by _____
2. That you should simultaneously endorse a copy of the
reply alongwith documents as mentioned at S.No. (1)
above to the application.
3. You are also directed to produce the record(s) noted
below for the perusal of the Hon'ble Bench of the
Tribunal on the date fixed for hearing.

Strike if not applicable .

* Order passed on dtd.

In continuation of order dated
6th November, 1989 order passed
on dated 29th November, 1989.

(P.T.O.)



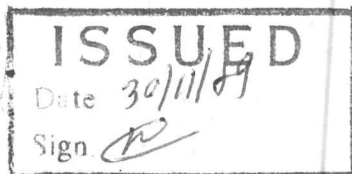
- (I) -
(II) -
(III) -

4. The above application has been fixed for hearing on _____ at 10.30 A.M. However, the application for interim relief has been fixed for hearing on 18/12/1989 at 10.30 A.M. Should you wish to argue anything against the issue of interim order, you are at liberty to do so on _____ or so any other date to which the case may be adjourned, either in person, or through an 18/12/1989 appointed by you for this purpose. Also take notice that in default of your appearance on the date fixed, the case will be heard ex-parte.
5. A copy of the order Dated _____ passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad is typed overleaf for immediate compliance/information/necessary action. 29/11/1989.

WITNESS the Hon'ble Vice Chairman, Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad this _____ day of _____ in the year 198 .

November
DATE : _____

30/11/1989.



9
RC
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH,
AHMEDABAD.

* Order passed on 29/11/1989.

Heard Mr. Hemant Thakore for Mr. M.R. Anand, learned advocate for the petitioner. Mr. N.S. Shevde, learned advocate for the respondents wants more time to file reply and states that the petitioner is on leave. 15 days allowed for filing reply and in the mean time the petitioner be allowed interim relief in terms of his continuing to be on leave and further implementation of the impugned orders at Annexure A-2 stayed in these terms. The case be posted on 18/12/1989 for further direction and continuation of interim relief.

O/C
RC
30/11/89.

We may keep with papers

भारत सरकार

ई.जी-1

रेल मंत्रालय (रेलवे बोर्ड)

सं. ई. (जी.) 9

एल. एल. 3-

नयी दिल्ली, दिनांक 19

सेवा में,

रजिस्ट्रार, केन्द्रीय प्रशासनिक अधिकरण,

विषय :-

महोदय,

उपर्युक्त विषय पर आपके तारीख के सम्मन/आदेश के सम्बन्ध में मुझे यह सूचित करने का निर्देश हुआ है कि महाप्रबन्धक रेलवे इस मामले को निबटाने में सक्षम प्राधिकारी हैं। इसलिए विचाराधीन सम्मन/आदेश आवश्यक कार्रवाई हेतु उन्हें भेज दिये गये हैं।

भवदीय

संलग्न : कुछ नहीं।

कृते सचिव, रेलवे बोर्ड

सं. ई. (जी.) 9

एल. एल. 3-

नयी दिल्ली, दिनांक

अदालत के सम्मन/आदेशों सहित एक प्रति महाप्रबन्धक, आवश्यक कार्रवाई हेतु अग्रेषित।

इस मामले में सुनवाई की तारीख

संलग्न : कुछ नहीं।

रेलवे बोर्ड मुद्रणालय, जून-89. 10, 000 फार्म.

10,000 F.