

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NEW DELHI~~O.A. No. 87 OF 1990
~~Ex No.~~

DATE OF DECISION 19-9-1990

SMT. S.S. JHIRAD PetitionerMR. A.S. DAVE Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s.MR. J.D. AJMERA Advocate for the Respondent(s)

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The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. N.R. CHANDRAN, 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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Central Administrative Tribunal
Ahemedabad Bench

PRESENT

The Hon'ble Shri M.M.Singh, Administrative Member

and

The Hon'ble Shri N.R. Chandran, Judicial Member

Original Application No. 87/90

Smt. S.S. Jhirad : Applicant

vs.

1. Union of India rep by
Its Secretary,
M/o Supply and Textiles,
New Delhi.
2. Director of Inspection,
Aikar Bhavan, Annex²,
New Marine Lines
Bombay- 20
3. Assistant Director(Adm)
Aikar Bhavan Annexe.
New Marine Lines,
Bombay - 20
4. Deputy Director of Inspection,
Harkunwar's Haveli,
Opp: Jain Temple,
Gandhi Road,
Ahemedabad-

A.S. Dave : Counsel for the applicant

J.D. Ajmera : Counsel for the respondents.

ORDER: Pronounced by Hon'ble Shri N.R. Chandran,
Judicial Member.

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The applicant in this application is challenging the order of transfer dated 9.2.90 issued by the 3rd respondent, transferring the applicant from Ahmedabad to Bombay. The facts leading to the filing of this application are as follows:

The applicant was originally appointed as Lower Division Clerk(LDC for short) in the office of the Director of Supplies and Disposals, in Bombay, in the year 1975. Her husband was employed in Railways in Ahmedabad. Therefore, in 1981, the applicant made representation to the authorities that she may be transferred to Ahmedabad to join her husband. There is no subordinate office for Director of Supplies and Disposals at Ahmedabad. the office of the Therefore, she was transferred to Deputy Director of Inspection, Ahmedabad, which is a different unit. in Ahmedabad While joining she had foregone her earlier seniority and joined as junior most LDC, in the office of the Deputy Director of Inspection.

The respondents in their reply statement

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has stated that she made a representation on 24.1.90 to transfer her to Bombay or any outstation office for her better future prospects and based on her request and in 'public interest' she had been transferred to Bombay on 9.2.90.

The learned counsel for the applicant submits that the applicant being a lady, having been transferred to Ahemedabad from Bombay to join her husband, ought not to have been transferred again to Bombay. Also the applicant has two small children studying in Class III and Class I and therefore her transfer to Bombay at this juncture would cause irreparable loss to the family. He also stated that ~~4~~ it is true that the applicant had filed a representation on 24.1.90 seeking transfer to Bombay or any outstation for better prospects in her career. But subsequently she withdrew her representation on 29.1.90, and there fore the respondents ought not to have transferred the applicant to Bombay. On these ground, the learned counsel prayed for the application be allowed and the transfer order be quashed.

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On the other hand the learned counsel for the applicant submitted that the applicant was transferred to Bombay on 'public interest' and such orders of transfer cannot be interfered with by the Tribunal. He would rely on the representation dated 24.1.90 requesting transfer to Bombay or any outstation. He also made available the files to substantiate the averments made in para 6 of the reply affidavit dated 27.3.90. He, therefore prayed that the application be dismissed. He also submitted that the applicant is having the habit of taking frequent leave. In this regard he filed a statement for the period from 31.7.89 to 19.2.90, in which it is shown that in the above period the applicant took 97 days leave out of 204 days.

We have heard the counsel for the applicant and counsel for the respondents and perused the file. The applicant, on her request, was transferred to a different unit from Bombay to Ahmedabad. As per rule she had agreed to forego her earlier seniority. Now, the order of transfer from Ahmedabad to Bombay

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was necessitated by her request letter dated 24.1.1990. But subsequently, on 29.1.1990, she withdrew her request for transfer, which is available in the records produced by the respondents. But the learned counsel for the respondents relied upon the other materials available in the records for justifying the transfer to Bombay. It is stated in para 6 of the reply that her presence at Ahmedabad was not conducive for the smooth functioning of the administration and her behaviour with public was not proper. It is also submitted that she is always quarelling with other colleagues. But the respondents thought it fit not to rely on those materials for justifying the transfer. All that they rely is the request letter dt.24.1.1990 for transfer to Bombay or any outstation. Once the letter dt.24.1.1990 is withdrawn by the applicant by her letter dt.29.1.1990, the earlier letter dt.24.1.1990 ought not to

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have been relied upon and the respondents ought not to have acted on the basis of the earlier letter dt.24.1.1990. Even though the respondents are now trying to justify the transfer on the ground of 'public interest', it is clear from the file that what necessitated the present transfer was her earlier request for transfer to Bombay or any outstation which had subsequently been withdrawn. Therefore, the respondents action, transferring the applicant, cannot be sustained and the said order is liable to be set aside. Therefore, the impugned order, transferring the applicant from Ahmedabad to Bombay, is set aside. The respondents are therefore directed to give postings to the applicant and restore status-quo-ante. The postings as directed to be given within 15 days from the date of receipt of a copy of this order. The period between the order of transfer and till the applicant is reposted, shall be

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treated as spent on leave, admissible
to the applicant. We, however, make
it clear that it is still open to the
respondents to take departmental action
in the interest of administration against
the applicant for any irregularities, if
they so desire.

The application is allowed as above.

N.R. Chandran
(N.R. Chandran)
Judicial Member

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

Index: ~~yes~~ no

svs: