

Transfer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 103 OF 1991
~~XXXXXX~~

DATE OF DECISION 26-3-1991

Kantilal Balabhai Patni, Petitioner

Mr. T.K. Trivedi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

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

CORAM :

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

The Hon'ble Mr. S.Santhana Krishnan, 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*

Kantilal Balabhai Patni,
residing at 19, New Adarsh Society,
Kankaria, Ahmedabad - 22.
(Old Pilot Dairy Road).

.... Applicant.

(Advocate: Mr. T.K. Trivedi)

Versus.

Union of India
(Notice to be served through)
Shri N.R. Varsani,
Director,
Director of Census Operations
Gujarat,
Kerawala Building,
Opp. V.S. Hospital, Ahmedabad.

..... Respondent.

(Advocate: Mr.M.R. Raval for
Mr. P.M. Raval)

ORAL ORDER

O.A. 103/91

Date: 26-3-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

Mr. M.R. Raval, learned counsel for the respondents, files reply copy for which has been served on the applicant's counsel. Reply be taken on record. Mr. T.K. Trivedi counsel for the applicant submits rejoinder with copy to the other side. Rejoinder be taken on record.

2. This Original Application under section 19 of the Administrative Tribunals Act, 1985 questions the order of the applicant's transfer (Annexure A-I) dated 20th March, 1991 from the office of Directorate of Census Operations in the post of Investigator, Coding & Editing Cell, Bhudarpura to the post of Sample Registration Scheme (Rural) Gandhinagar which is mentioned in the transfer order in abbreviation as

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S.R.S.(Rural). It is alleged that the transfer of the applicant is with malafide intention without any proper reason disregarding the option exercised by him against transfer. It is further alleged that the transfer involves a fall in the total emoluments the applicant receives while posted in Ahmedabad where the rate of CCA and HRA is higher than at Gandhinagar.

3. Mr. Trivedi, ^{LM} on our query, informed that the applicant is in Ahmedabad from 1983 onwards and that his post is transferable.

4. The above impugned order has for its preamble "after the assessment of work position in different sections, the following officials are transferred in public interest and administrative convenience". Five officers are mentioned as transferred and directed to report and take charge with immediate effect.

5. Mr. M.R.Raval for the respondents submits that ^M the Mr. R.R. Bhatt ^u ^H reliver of the applicant, has already taken over charge at Ahmedabad which implies that the applicant already stands relieved on transfer though, according to Mr. Raval, the applicant, after the transfer order above, proceeded on leave and did not comply with the transfer order and has not come to the office ever since.

6. Mr. Trivedi for the applicant tried to persuade us by placing before us a very long tale of the squabbes and differences prevailing in the rank and file of the department as a result of which the applicant who is claimed to be discharging his duty properly happend to act against a crony of the higher authorities which resulted in the order of transfer. It is further his

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submission that options for transfer out of Ahmedabad were asked and the applicant has given his option against transfer out of Ahmedabad. When we queried Mr. Trivedi whether the options asked are for transfer or against transfer, Mr. Trivedi informed that options were asked from people who did or did not want transfer outside Ahmedabad and the applicant exercised option to the effect that he did not want transfer outside Ahmedabad.

7. It is further submitted that there is no office at Gandhinagar and the applicant has been asked to go and sit in an office of the State Government. This submission appears to be prime-facie unacceptable because Mr. R.R.Bhatt who was posted as Investigator S.R.S.(Rural) Gandhinagar and transferred to Ahmedabad in place of the applicant ^hrationally held office in Gandhinagar and obviously therefore the applicant has also to do the same. He cannot object to that on the ground that the office is in a building which houses ^M on office of the State Government. This suffice as evidence about the exigencies ^{evidence h} of a place where Mr. R.R.Bhatt ^{was M} sitting and where the applicant will sit when he resumes there.

8. According to Mr. Trivedi, the applicant despite the atmosphere in the office referred to above did not complain to any of his superiors.

9. There is no doubt that with the Census enumeration completed, the data generated will have to be put to process so that census serves its purpose. The allegation that the order of transfer has been issued without any proper reason, is baseless as

reason for transfer figures in the above quoted preamble. Presuming for the sake of argument that the order of transfer of applicant was prompted by malafides, it is difficult to believe that he would figure in a general order of transfer which has been made in the interests of official work after assessment of work position in different sections. The order of transfer prima facie appears to have been issued by way of normal exercise of administrative authority which authority is vested with the responsibility to assess work in different sections under it. Transfer is an incident of Government service and the applicant has been transferred from Ahmedabad to Gandhinagar, a place only about 26 KM. away from Ahmedabad.

10. With regard to loss of CCA and HRA on posting at Gandhinagar, there is no vested right of a Government servant for CCA and HRA and transfer cannot be questioned on the ground that on transfer to the new place CCA & HRA will be at a lower rate. Only rights to salary and CCA and HRA rate prescribed at the place of new posting can be considered as vested rights.

11. In the above reasoning, the application is devoid of all merits. There is no question of giving any interim relief in such an application. On the contrary, it is to be disposed of finally as rejected. We hereby do so without any order as to costs.


 (S. Santhana Krishnan)
 Judicial Member.


 (M. M. Singh)
 Admn. Member