

To be sent to

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
NEXWXXDXEXXHII

O.A. No. 167 of 1991.
~~ExxxNox~~

DATE OF DECISION 3.5.1991

Mr. Daya Nand Sharma Petitioner

Mr. R.K. Mishra Advocate for the Petitioner(s)

Versus

Chief Engineer & Ors. Respondent

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

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

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

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?

Mr. Daya Nand Sharma,
Superintendent B/R Gd.I,
58/1, MES Qtrs.
Camp Hanuman, Cantt.,
Ahmedabad.
(Advocate-Mr. R.K. Mishra)

.. Applicant

Versus

1. Chief Engineer,
Military Engg. Service,
Southern Command,
Pune.

2. Chief Engineer,
MES, Ahmedabad Zone,
Camp Hanuman, Cantt.,
Ahmedabad.

3. Garrison Engineer,
MES, Camp Hanuman Cantt.,
Ahmedabad.

.. Respondents

(Advocate-Mr. P.M. Raval)

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

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

O.A. No. 167 of 1991

O R D E R

Date : 3.5.1991

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

Heard learned advocate Mr. R.K. Mishra for the applicant. He challenges the order at Annexure A-1 dt. 30.3.1991 by which he has been permanently posted at Pune and the orders are having immediate effect and are to be complied with not later than 6th April, 1991.

Learned advocate for the applicant states that he has filed a representation which is pending consideration and he draws our attention to the instruction on which he claims that as persons who have been longer at Ahmedabad have not been disturbed, he has right to be continued until they are transferred. The policy instructions themselves states that no person should be retained.

in a post for more than 3 to 4 years and the applicant has admittedly been at Ahmedabad since 1979. We find no reason whatever to interfere with this order. The applicant is at liberty to file a representation before his superior after complying with the instructions as laid down by the Supreme Court in AIR 1991 S.C. 531 - *Shilpi Bose v. State of Bihar*, which states that "Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the orders instead affected party should approach the higher authorities in the Department.". Accordingly, the application is dismissed.

R C Bhatt
(R C Bhatt)
Judicial Member

P H Trivedi
(P H Trivedi)
Vice Chairman

*Mogera