

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

OA/328/92

Date of Decision 24.09.99

Mr.P.R. Jain : **Petitioner (s)**

Mr. M.D. Rana : **Advocate for the petitioner(s)**

Versus

Union of India & Ors. : **Respondent(s)**

Mr.B.N. Doctor : **Advocate for the Respondent(s)**

**CORAM**

**The Hon'ble Mr. V. Ramakrishnan** : **Vice Chairman**

**The Hon'ble Mr. P.C. Kannan** : **Member(J)**

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the judgment? *yes*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? *no*

P.R. Jain,  
Serving as Upper Division Clerk,  
Weaver's Service Centre,  
Premier Shopping Centre,  
Mirzapur Road,  
Ahmedabad.

-- Applicant --

(Advocate : Mr. M.D. Rana)

Versus

1. The Union of India,  
Notice to be served on Director,  
Government of India,  
Ministry of Textiles,  
Weaver's Service Centre,  
Bharat Nagar, Delhi - 52.
2. The Assistant Director,  
Government of India,  
Ministry of Textiles,  
Office of the Development  
Commissioner, (Handloom)  
New Delhi.
3. The Zonal Director,  
West Zone,  
Weaver's Service Centre,  
Government of India,  
15-A, Mama Parmanand Marg,  
Mumbai.
4. Dy. Director,  
Weaver's Service Centre,  
Mirzapur, Ahmedabad.

-- Respondents --

(Advocate : Mr. B.N. Doctor)

ORAL ORDER  
O.A 328 OF 1992

Date : 24.09.99

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

We have heard Mr. Rana for the applicant and Mr. Doctor for the respondents.

2. The applicant is an employee of Weaver's Service Centre in the Ministry of Textiles. He was also working in the Northern Zone of Weaver's Service Centre. He joined service as LDC in 1978 and was made adhoc UDC on 9<sup>th</sup> Jan ' 1980. We also find from the letter dated 01.05.89 as at Annexure A-1 that the Departmental Promotion Committee considered him for regular promotion to the level of UDC and as per its recommendation, the department promoted him on regular basis to the post of UDC w.e.f. 24.03.89 and he was posted at Weaver's Service Centre at Jaipur under the Development Commissioner for Handlooms. Meanwhile, the department had gone into the question of decentralisation of powers and functions and created four zones namely, East, South, North and West. Pursuant to the creation of separate zone-wise cadres it was decided that all members of the common cadre should be given option to choose between the continuation in the zone in which they are presently posted or posting in other zones. All Group 'C' and 'D' staff of all the WSCs / IIHTs were permitted to exercise their options in the prescribed form

appended therewith by or before 31.12.87. Options once exercised shall be treated as final. Para 4 of the scheme gives right of option to employees in Group-C and D. Para 5 specifically provides that inter- zonal transfers may be made subject to availability of vacancies and administrative exigencies and that the exercise of option would not confer any right / claim in the optee for posting / for assigning to the zone opted by him and that the Government reserved its right to assign / to post any officer to any of the zones irrespective of the option exercised by him / her.

The applicant when he was promoted on regular basis UDC was in the northern zone and he opted to come to the western zone. We find from the Annexures to the reply statement of the respondents that he had stated that on 27<sup>th</sup> June 88, when he was functioning as adhoc UDC, he opted for posting in the western zone. He was holding post of adhoc UDC on the date he exercised option which was in June '88. The department brought him over to west zone ~~on~~<sup>on</sup> 13<sup>th</sup> June 1991 to Ahmedabad in the west zone as UDC. We find from the order dated 13<sup>th</sup> June 91 as at Annexure A-2 that the applicant who is shown as UDC in Jaipur was transferred in the same capacity to Ahmedabad in the Western zone in place of Shri. Borgeonkar UDC, WSC, Ahmedabad who was under suspension. The department later on took the view that he was brought only as adhoc UDC in the vacancy created by an officer who was under suspension and sought to revert him as LDC by their order dated 28<sup>th</sup> May 92. It further held that ~~as~~ the applicant had opted for placement in the west zone. He had then approached the Tribunal and the Tribunal by its interim order dated 07.08.92 stayed the implementation of the impugned order as at Annexure A-4. We are informed that the applicant still continues as UDC in Ahmedabad.



3. Mr. Rana submitted that the applicant has been regularly appointed by the Departmental Promotion Committee, North Zone. When he opted for western zone, he is to be given only the same post and not as adhoc UDC or as in any case he could not be reverted as LDC. He says that the scheme states that the transfer will be done subject to availability of vacancies and administrative exigencies. Infact the order dated 30<sup>th</sup> June'91 as at Annexure A-2 refers to transfer of the applicant in public interest to West zone. The applicant had nowhere has agreed to his being brought over to the lower position as compared to what he was holding earlier. Mr. Rana submits that the applicant has been regularly appointed by the competent authority as UDC and reduction to the level of LDC can be done only at his option or by way of punishment. He has neither opted for the reduction nor any departmental proceedings were initiated against him. No disciplinary proceedings were pending against him at the relevant time. In the circumstances, Mr. Rana contends that the action of the department is against the law.

4. Mr. Doctor brings out that the applicant having opted for west zone in 1988 it was not open to the North zone to promote him to the level of UDC. As he has opted for placement in the West Zone and initially as adhoc UDC he was accommodated against the same and the <sup>appointment</sup> applicant as UDC was not on regular basis. He is however, not able to throw light as to why the west zone took him at the level of UDC when they were aware that he was promoted as UDC on regular basis from the year 1989 in North zone and the transfer to the West zone was affected only on 13<sup>th</sup> June 1991.

5. We have carefully considered the submissions of both the counsel. We find force in the submission of Mr. Rana that the relevant scheme does not provide for reversion of employees to lower level. The applicant also has not at no time opted for placement in the West Zone at the level of LDC. Infact the order dated 13<sup>th</sup> June 1989 talks of transfer in the public interest and not merely on the basis of option of the applicant. Para 5 of the scheme dated 2<sup>nd</sup> December '87 reads as follows :-

"5. The Inter-zonal transfers will be made subject to availability of vacancies and administrative exigencies. The exercising of option would not confer any right / claim in the optee for posting / for assigning to the zone opted by him. The Government reserves its right to assign / to post any officer to any of the Zones irrespective of the option exercised by him / her. "

From this, it is evident that merely because a person opts, he need not be accommodated in the other zone and the same can be done only subject to availability of vacancies and administrative exigencies. From the reading of the order dated 13<sup>th</sup> June 87 it is seen that the transfer was in public interest and the department was aware that he was holding the position of UDC. The applicant being an optee of West Zone was considered for transfer to the West Zone and posted at WSC, Ahmedabad. The <sup>respondent's</sup> Railways, in any case cannot revert the applicant to the lower rank of LDC. If no vacancies at the level of UDC was available, it was open to the West Zone to have rejected the applicant's option. However, we note that vacancies should have arisen over this long period.

6. In the light of the foregoing discussion, we hold that the O.A deserves to be allowed. We accordingly, quash the order dated 28<sup>th</sup> May 1992 in so far as it seeks

to revert him to the post of LDC. The respondents are directed to treat the applicant as a regular UDC and accommodate him against the suitable post at that level preferably in the Western Zone itself where he has been serving for so long.

7. The O.A is disposed of with the above direction with no orders as to costs.



(P.C. Kannan)  
Member (J)



(V. Ramakrishnan)  
Vice Chairman

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