

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 22 of 1992
TAX No.

DATE OF DECISION 11.2.1992

Shri Jayantilal Jamanadas Baret Petitioner

Shri P.F. Makwana Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.B. Naik Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt : Member (J)

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?

Shri Jayantilal Jamanadas Barot,
Technican, (C.T.X.) Kalol,
Waland's Khadki, Panch-Hatdi Bazar,
Kalol,
NORTH GUJARAT

: Applicant

(Advocate : Shri P.F. Makwana)

VS.

1. Union of India, through
The Chief General Manager,
Telephones,
Gujarat Circle,
Ramnivas Building,
Khanpur,
AHMEDABAD.

2. Telecom District Manager,
Janata Super Market,
MEHSANA.

3. Sub Divisional Officer (Phones)
Shreyas Society,
Behind Railway Station,
KALOL (N.G)

: Respondents

(Advocate : Shri B.B. Naik)

O R A L - J U D G E M E N T

O.A. No. 22 of 1992

Date : 11.2.1992

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

Heard Shri P.F. Makwana, learned advocate for the applicant and Shri R.R. Tripathi for Shri B.B. Naik, learned advocate for the respondents. This application is filed under Section 19 of the Administrative Tribunals Act, 1985, by the applicant serving in the Telecom Department, challenging his order of transfer, vide impugned order dated 8.11.1991. The allegation of the applicant is that the impugned transfer is illegal, ~~and~~ arbitrary, against principle of law and natural justice, and that

no genuine reason is assigned by the respondents for transfer. It is alleged that the order of transfer is by way of punishment and that the village Kakosi, where he is transferred, is away from Kalok where he is at present serving. It is alleged that the transfer is not on the ground of administrative exigency but the real ground is that he is victimised. The applicant would suffer great hardship because he is the only member earning bread in his family and his children are studying in school and the applicant has an aged mother.

2. Before this application was filed by this applicant, he had made written representation, annexure A/2 dated 10.12.1992, to the authority concerned, against the order of transfer. The grounds mentioned in the representation were of two in number. One ground was that his children were studying in school and the second ground was that his aged mother required regular medical attention.

3. It is not shown that there is any statutory rule which prohibits the transfer of the applicant. It is well settled that the transfer is incident of service and it is not punishment or victimisation, as alleged. There is no ground of malafide which can come in the way of transfer. Learned advocate Mr. P.K. Makwana for the applicants submitted that the applicant has taken sick leave after the order of transfer, and at present he is on leave

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without pay. He submits that looking to the fact that the applicant's children are studying in school, the respondents may consider the request of the applicant not to transfer the applicant during mid-term of the academic year. This ground seems to be genuine. Learned advocate Mr. R. R. Tripathi for the respondents also submits that the respondents may consider the representation sympathetically because the children of the applicant are school going, and the applicant would find difficulty if he is transferred in the midst of the academic year. In these circumstances, the only direction which can be given to the respondents is to consider the representation of the applicant dated 10.12.1991, annexure A/2, sympathetically. Hence the following order is passed:-

O R D E R

The application is disposed of by giving direction to the respondent no. 2 and 3 to consider the representation of the applicant dated 10.12.1991, annexure A/2, and to dispose of the same sympathetically. The application is disposed of. No order as to costs.

Rebel

(R.C.Bhatt)
Member (J)