

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

\* \* \*

Date of Decision: 29.10.96

OA 330/96

Laxmi Narain, Junior Stores Keeper, Atomic Energy, Heavy Water Plant, Kota.

... Applicant

Versus

1. Union of India through the Secretary, Department of Atomic Energy, Chatrapati Shivaji Marg, Anu Shakti Bhawan, Mumbai.
2. Director of Purchase & Stores, Department of Atomic Energy, Vikram Sarabhai Bhawan, Anu Shakti Nagar, Mumbai.
3. General Manager, Heavy Water Plant, Anu Shakti, Kota.
4. Stores Officer, Shri C. Ponniah, Heavy Water Plant, Anu Shakti, Kota.
5. Assistant Stores Officer, Shri Tarachand, Heavy Water Plant, Anu Shakti, Kota.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. S.C. VAISH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr. N.K. Khandelwal  
For the Respondents ... Mr. Vinit Mathur

O R D E R

PER HON'BLE MR. S.C. VAISH, ADMINISTRATIVE MEMBER

Applicant, Shri Laxmi Narain, is a Junior Stores Keeper in the Atomic Energy, Heavy Water Plant at Kota. He has come to the Tribunal seeking a relief against a transfer order dated 24.9.96 (Ann.A-1), by which he was transferred from Kota to Bombay, and also against an order dated 4.10.96 (Ann.A-2), by which he was relieved.

2. The respondent department of Atomic Energy have filed a reply contesting this application, to which the applicant has filed a rejoinder. We have heard Shri N.K. Khandelwal for the applicant and Shri Vinit Mathur for the respondents and examined the records in detail.

3. The case of the applicant is that he is a member of the Schedule Castes/Tribes and for such persons there is a special consideration in the matter of posting and transfers and there is a general policy that they should be posted near their native places. Secondly, it has been pleaded that the applicant was posted to Kota on compassionate grounds, only two years back. It is further alleged on behalf of the applicant that th:

*mwm*  
29/10/96

(7)

transfer is mala fide as the applicant had made a complaint to respondent No.2 against the irregularities being committed at Kota and he had also filed a Writ Petition in the High Court at Jodhpur, in which notice has been issued. It has been alleged that this transfer is mala fide, to prevent the applicant from exposing the respondents and from pursuing his complaint and his Writ Petition.

4. This was contested by the learned counsel for the respondents. The learned counsel for the respondents urged that one of the grounds taken by the applicant is that it is a mid-session transfer and this Tribunal, by its order dated 16.10.96, asked the respondents to report on availability of admission facilities and also whether the applicant can be allowed to stay till the end of the session. The learned counsel for the respondents stated at the bar that his enquiry has revealed that the applicant has no school going children. He further urged that the transfer is on administrative exigency as there is shortage of staff in Bombay. The impugned transfer order is reproduced below :-

"Ref: DPS/2/1(75)/96-Adm./5470

September 24, 1996

MEMORANDUM

Considering the reduced number of staff available in the Mumbai based Units/Madras Region and also taking into account of the quantum of work fallen in arrears in these Units, I hereby order the transfer of the following persons to Mumbai/IGCAR, Kalpakkam with immediate effect in public interest.

1. Shri Jeevan Chacko, Purchase Assistant, IRPU, CAT, Indore to Central Purchase Unit DPS, Mumbai. On relief he will report to Jt. Director, P&S, Mumbai.
2. Shri L.N. Mehar, Junior Storekeeper, HWP Stores, Kota to Central Stores Unit/DPS, BARC, Mumbai. On relief he will report to Dy. Director, Central Stores Unit, Mumbai.
3. Smt. Meena Joshi, Purchase Clerk, DRPU, Delhi to Central Purchase Unit, DPS, Mumbai. On relief she will report to Jt. Director, P&S, Mumbai.
4. Shri B. Ranganathan, Stores Clerk, HRPSU, Hyderabad to IGCAR Stores, Kalapakkam. On relief he will report to Stores Officer, IGCAR Stores, Kalapakkam.

The above officials are eligible for the Transfer TA/DA, Joining time, etc., as per the rules.

Sd/-

(S. Balaraman)  
Director, P&S"

It shows that apart from the applicant, two other persons were transferred to Bombay and the 4th person to Kalpakkam.

5. We have given our consideration to the pleas raised by the learned counsel for the applicant. The general policy regarding employees belonging to Scheduled Castes/Tribes is for guidance but not mandatory in nature. Also, just because the applicant has made a complaint against his office and preferred a Writ Petition in the High Court, this cannot act as debarment to his transfer from Kota. We have perused the transfer order dated 24.9.96 and we see no occasion for interfering with it. Transfer is an exigency of service and the applicant cannot stop his transfer by a Writ Petition and a complaint.

6. In these circumstances, the application has no merit and is rejected at the stage of admission. No order as to costs.

*mml 29-10-96*  
(S.C.VAISH)

ADMINISTRATIVE MEMBER

VK

*Copy to mml 29-10-96*  
(GOPAL KRISHNA)

VICE CHAIRMAN