

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION

21st March, 1990.

Present

Hon'ble Shri S.P.Mukerji, Vice Chairman
&
Hon'ble Shri A.V.Haridasan, Judicial Member

ORIGINAL APPLICATION NO.418/89

E.K. Francis

.. Applicant

Vs.

1. The Superintending Engineer
(Coord), South Zone,
Central Public Works Department,
Egmore, Madras-600 008.
2. The Superintending Engineer,
Central Circle,
Central P.W.D.
Trivandrum.
3. The Executive Engineer,
Central Public Works Department,
Govardan Building, Chittoor Road,
Cochin-35.

.. Respondents

Counsel for the applicant

.. M/s P.V. Narayanan Nambiar,
M.P.Asok Kumar & Nirmala
Karuna D'Cruz.

Counsel for the respondents

.. Mr. P.Santhalingam, ACGSC
for R.3.

ORDER

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 13th July, 1989 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as Junior Engineer in the Central Public Works Department, Kerala Circle has prayed that the impugned order at Annexure A.3 transferring him from Cochin to Madras may be kept in abeyance till the end of the present academic year. The applicant is still continuing in the present post under

the interim orders of this Tribunal. The applicant's plea is that ever since 1965 as Junior Engineer he has been working in difficult areas like Nepal (1965-70), Gujarat (1970-79) and thereafter for two years in Kerala. From 1981 to 1985 he was posted in the Lakshadweep Islands on deputation. During this period he was posted at Mangalore and Calicut also. From 1985 onwards he has been working as Junior Engineer at Cochin. According to him Junior Engineers are retained at a particular station for a tenure of eight years but he was transferred by the impugned order dated 21.6.89 to Madras prematurely while others who had longer ^{posting} ~~service~~ in Kerala had been retained. His representation has also not been disposed of. The respondents had extended his posting at Cochin upto 31.8.89 and thereafter he is continuing under the interim orders of this Tribunal.

2. The respondents' argument is that the period spent by the applicant in Lakshadweep Islands has to be considered to be period of service within Kerala as he was on deputation from Kerala to the Islands. Thus he had completed ten years of service in the Kerala Circle by 1989 when the impugned order transferring him to Madras was passed. The respondents have explained the cases cited by the applicant of Junior Engineers

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with more than eight years of service ^{in Kerala} being retained within Kerala by stating that they were retained on administrative and medical grounds.

3. Having heard the arguments of the learned counsel for both the parties and gone through the documents carefully we are satisfied that there is no malafide or discrimination involved in the impugned order transferring the applicant to Madras. The transfer is an incident of service and the employers have the prerogative of deploying the staff anywhere within the area of their transfer in public interest. Judicial intervention is called for in exceptional circumstances where the transfer is punitive in nature or has been ^{ordered} ~~made~~ for collateral purposes.

Since such circumstances are not discernible in this case we feel that judicial intervention is not warranted. However, considering that the present academic session is already coming to a close and the applicant ^{in any case} has ^{till now} been retained in the present posting under the order issued by the respondents initially and thereafter by the interim order of this Tribunal, we feel that in the interest of justice and equity the applicant may be allowed to be retained

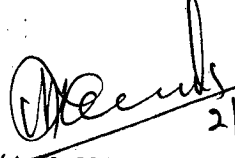
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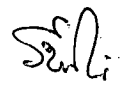
in Cochin till the end of the present academic session i.e., 31.5.90.

We accordingly dispose of this application only with the direction to the respondents that the applicant should be retained in his

present post till 31.5.1990. There will be no order as to costs.


21/3/90
(A.V. HARIDASAN)
JUDICIAL MEMBER

21.3.90


21.3.90
(S.P. MUKERJI)
VICE CHAIRMAN

Ksn.