

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision : 13.12.1989

Present

Hon'ble Shri NV Krishnan, Administrative Member
and

Hon'ble Shri N Dharmadan, Judicial Member

DA 445/89

K Ramachandran

: Applicant

Vs

1 The Director General of
Lighthouses and Lightships
Government of India,
Ministry of Shipping & Transport
New Delhi.

2 The Director,
Lighthouses and Lightships,
Madras District, Department of
Lighthouses and Lightships,
Ministry of Shipping & Transport
Jaffar Syrang Street, Madras-1.

3 Union of India rep. by the
Secretary to the Govt. of India
Ministry of Shipping & Transport
New Delhi.

: Respondents

M/s MR Rajendran Nair & PV Asha

: Counsel of Applicant

Mr P Santhalingam, ACGSC

: Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The applicant is aggrieved by the order dated
23rd June, 1989 (Annexure-III) of the Director of Lighthouses,
Madras District posting him as Head Light Keeper (Junior Scale)
at Nagayalanka Lighthouse.

2 The applicant's case is as follows:

2.1 The applicant was recruited to the Port Blair

Lighthouse District in Andaman and Nicobar Islands as an

Assistant Light Keeper in 1969. He continued to work in

those Islands till 1979 when, for personal reasons, he sought a transfer to the Madras Lighthouse District wherein there are 5 Lighthouses at Quilon, Muttam, Manappad, Mahabalipuram and Nagayalanka. This was allowed on his accepting the condition that he would be junior most in the Madras District. He was, therefore, initially posted at Quilon Lighthouse sometime in 1980 *as Head Lightkeeper (Junior Scale)* and then to Manappad Lighthouse.

2.2 As would appear from the record, one post of Head Light Keeper (Junior Scale) was reduced in the Madras District and therefore, one official became surplus. The applicant, being the junior-most person, *therefore,* ~~he~~ was transferred to Kalpeni Lighthouse in Lakshadweep which falls within the Cochin Light House District. When the applicant ^{filed a} petition in the Tribunal (OA 312/86) ^{against this transfer,} an order was passed on 7.10.87 (Annexure-I) upholding the transfer as having been made on administrative ground with the following observations:

" In the circumstances I find no reason to interfere with the order of transfer. However, I would like to add that in view of the peculiar circumstances under which the applicant secured a posting in Madras district, he shall be brought back to the Madras district, in the next vacancy of Head Lightkeeper (Junior) that arises. Subject to the aforesaid direction the application is dismissed". (emphasis ours)

2.3 The applicant contends that after the pronouncement of the above Annexure I judgment, the next vacancy arose at Quilon in June, 1989 and thereafter vacancies have arisen in Mahabalipuram and Muttam, all in the Madras Lighthouse

District. Therefore, the applicant made a representation in this regard and by the order dated 16th June, 89 (Annexure II) of the Director General of Lighthouses, (Resp-1) the applicant was transferred from Cochin Lighthouse District to the Madras Lighthouse District in public interest. In an endorsement to Respondent-2 it was stated that the applicant was transferred to the Madras District under ^{the second} Respondent against one of the vacant posts of Head Lightkeeper (Junior Scale). He was asked to issue the posting orders under intimation to Respondent-1.

2.4 It is pursuance of this Annexure II order of Respondent 1 that the impugned order Annexure III has been passed.

2.5 The applicant's contention is that the impugned order violates the direction given by this Tribunal in Annexure I judgment wherein the Respondent¹ ~~was~~ ^{he} ~~were~~ directed to bring him back to the Madras District in the next vacancy of Head Lightkeeper (Junior) that arises. It is also a violation of the Annexure II order of the Director General, Lighthouses (Respondent-1) as the applicant has been posted to a vacancy which ~~is~~ ^{is} yet to arise, whereas the direction given to him by Respondent 1 was that he should be posted to one of the two ~~existing~~ ^{existing then.} vacancies. This contention is being made by the applicant on the ground that in the impugned order he has been asked to report to the Head Lightkeeper, Nagayalanka

Lighthouse which ~~implies~~ ^{U therefore} that there is an incumbent already holding that post and ~~that~~ the post in Nagayalanka is not vacant.

3 The Respondent-2, (Director Lighthouse, Madras) has filed a reply ~~contending that~~ on behalf of all the Respondents. The main contention is that there was no direction in the Annexure I judgment of the Tribunal to him to post the applicant to any particular Lighthouse. It is also stated that the incumbent at Nagayalanka Lighthouse had already served there for more than two years and therefore, he was normally due for ^a transfer which could not be effected because of nonavailability of suitable relieving hands. Therefore, when Respondent-1 transferred the applicant from Cochin Lighthouse District to the Madras Lighthouse District by the Annexure II order, Respondent-2 posted him to Nagayalanka Lighthouse. It is also contended that the applicant cannot have any grievance against his posting to Nagayalanka because he has not served in that lighthouse which probably is one of the "difficult area postings" in the Madras District.

4 We have perused the records of the case and heard the learned counsel. We are of the view that the prayer made in this application has to be granted.

5 We notice that in the Annexure I judgment there was a specific direction to Respondent-2 that the applicant "shall be brought back to the Madras District in the next vacancy of Head Lightkeeper (Junior) that

arises". It is futile to plead that there was no direction in this order to post the applicant to a particular lighthouse. Indeed, there is such a direction. That direction is that it is ~~that~~ ^{that} lighthouse where the first vacancy arises, the applicant should be posted ~~there~~. Respondent-2 has, apparently to save himself from any embarrassment, deliberately avoided to rebut the applicant's contention that after the Annexure I judgment was passed, the first vacancy that arose was at Quilon, followed by Mahabalipuram and Muttam. The applicant was by virtue of that judgment entitled, as a right, to be posted to the first of those vacancies.

6 Similarly, Respondent 2 was also directed by Respondent 1 by the Annexure II order dated 16th June, 89 to post the applicant " against one of the two vacant posts of Head light keeper (Junior Scale)". Obviously, those two vacant posts could have been only ^{at} ~~from~~ Quilon, / Mahabalipuram and Muttam. For, it is clear from the impugned Annexure III order of Respondent that no vacancy has arisen ^{as} / yet at Nagayalanka lighthouse because ~~the~~ Headlight Keeper (Junior scale) was very much in position when that order was issued and in fact, it was to him that the applicant was to go and report for duty.

7 We are of the view that for reasons best known to him, Respondent-2 has chosen to ignore the directions given in the Annexure I judgment of this Tribunal as well as in the Annexure II order of the Director General of

Lighthouses (Respondent-1).

8. The contention that the applicant has not served a term at Nagayalanka Lighthouse would have some merit if Respondent-2 had shown that the first posting of any person in the Madras Lighthouse District is made to Nagayalanka or that it is necessary to serve a term there. There is no such averment in the counter affidavit.


9. For the reasons mentioned above, we are of the view that the applicant has been posted by the impugned order Annexure-III to Nagayalanka Lighthouse without any application of mind, to put it mildly and taking a charitable view of the second respondent's conduct. Therefore, we quash the Annexure-III order.

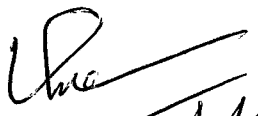
10. When the application was presented, an interim order was issued directing the Respondent not to fill up the vacancy alleged to exist at Muttam. The second Respondent has not denied the existence of such a vacancy. Normally, we would have left it to the second Respondent to issue a suitable posting order. However, we feel, from the narration of events given above, that

in the interest of justice we should issue positive directions in this regard, instead of trusting the Respondent-2 to do justice to the applicant. Therefore, having regard to the facts and circumstances of this case, and with great reluctance, we ^{ourselves} hereby direct the 2nd Respondent to post the applicant, on his relief from Kalpeni Lighthouse, to the Lighthouse at Muttam as Head Light Keeper (Junior Grade).

11. The application is allowed with this direction and there will be no order as to costs.

12. A copy of this judgment should be separately sent by the Registry to the first Respondent for his information and for such action as he considers necessary.


(N. Dharmadan) 13/12/89
Judicial Member


13/12/89
(N.V. Krishnan)
Administrative Member

13.12.1989.