

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.456/95

Wednesday, this the 19th day of July, 1995.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

S Venkatasubramanian,  
Surveyor of Works,  
Office of the Commander Works Engineer,  
Kattaribagh, Naval Base P.O.  
Kochi-682 004. - Applicant

By Advocate Mr G Sukumara Menon

Vs

1. Union of India represented by  
the Secretary,  
Ministry of Defence,  
New Delhi.
2. Engineer-in-Chief,  
Army Headquarters,  
DHQ PO, New Delhi-110 011.
3. Chief Engineer,  
Southern Command,  
Pune-411 001.
4. Chief Engineer(Navy),  
Kattaribagh, Naval Base,  
Kochi-4.
5. Commander Works Engineers,  
Kattaribagh,  
Naval Base P.O., Kochi-4. - Respondents

By Advocate Mr PR Ramachandra Menon, Additional Central  
Government Standing Counsel

The application having been heard on 19.7.1995  
the Tribunal on the same day delivered the  
following:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant who is a Surveyor of Works in the office of  
Commander Works Engineer, Cochin challenges Al order transferring

him from Cochin to Pune. By interim orders passed by this Tribunal he has been allowed to continue in his present position. Applicant states that he is on the last leg of his service, and that by virtue of the guidelines A2, para 18(b) he is entitled to a posting at his place of choice on compassionate grounds. He also states that he has served in various parts of the country, and that he has not availed of any special concession so far in his service in regard to his posting. He also states that no one has been posted in his place in Cochin and the post in Cochin is still available to accommodate him till his retirement in March 1996. He made representations but they have not been favourably considered. In his latest representation he had requested for a posting in Secunderabad/Bangalore if a posting at Madras is not possible. Learned counsel for applicant produced a letter dated 23.6.95 in which this request was rejected. The only reason stated is that the applicant has not provided sufficient justification to support his request. Applicant states that he will face difficulties in securing accommodation in Pune, and that his pension matters will be delayed in case he is transferred just prior to his retirement.

2. Learned counsel for respondents states that the transfer was part of the series of transfers in public interest, that even in the guidelines A2 (relied on by the applicant), para 12(e), it is stated that no officer has a right to a posting at or near home station on plea of last leg posting, and that in terms of several decisions of the Supreme Court such transfers would not be liable to be interfered with.

3. I find that the request of the applicant was supported by the fourth and fifth respondents as seen from A4, A5 and A8.

Despite this the request of the applicant has not received favourable consideration. Letter dated 16.11.94 of the fifth respondent, Commander of Works Engineers(A5) states:

"Keeping in view the non-availability of both DCWE E/M and DCWE B/R and the total service of the officer available prior to superannuation, it is strongly recommended the officer be permitted to retire from the existing appointment."

Though such a strong recommendation has been made, the applicant's request has not been favourably considered and even the letter dated 23.6.95 only states that the applicant has failed to produce reasonable grounds in support of his request. This would imply that if sufficient grounds were available, the grant of the request of the applicant would not be against public interest. It is also noticed that while para 12(e) of the guidelines A2 states that no officer has a right to a particular posting on plea of last leg posting, here the applicant is not asking for any particular posting, but is only asking that he be allowed to continue in his present post for another eight months.

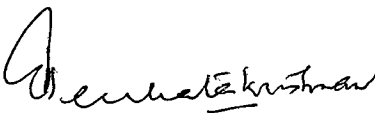
4. Keeping all these circumstances in view, I direct second respondent to consider the case of applicant afresh and examine whether applicant can be retained at Cochin till his retirement in another eight months or if he has to be moved at all from Cochin, at least whether he can be accommodated at Bangalore/Secunderabad if not Madras. Such consideration may be done within two months. Till such consideration, applicant shall be permitted to continue in his present position.

5. Learned counsel for respondents submits that since applicant has a major apprehension about delay in settlement of pension as a result of the transfer which needs to be allayed, in case

applicant obeys the order of transfer, the respondents would ensure that there will be no delay in payment of his pension benefits. I record the submission. Respondents shall take adequate steps to ensure prompt processing of the pension papers of the applicant.

6. Application is disposed of as aforesaid. No costs.

Dated, the 19th July, 1995.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

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List of Annexures

1. Annexure AI: True copy of Posting Order No.MES/117/94 dated 18-10-94 of the 2nd respondent issued to the applicant.
2. Annexure A2: True copy of posting policy issued by the 2nd respondent No. 41254/Policy/EIB dated 21-2-1991.
3. Annexure A4: True copy of letter No.125004/1181/EIB(o)dated 21/11/94 of the 4th respondent to the 3rd respondent.
4. Annexure A5: True copy of letter No.13013/3535/EIB dated 16/11/94 of the 5th respondent issued to the 4th respondent
5. Annexure A8: True copy of letter No.13013/3582/EIB dated 25-3-1995 from the 5th respondent addressed to the 4th respondent.