

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 516/1992
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~~199x~~

DATE OF DECISION 20.10.1992

C.Ahamed Koya Applicant (s)

Mr.K.A.Abdul Gafoor Advocate for the Applicant (s)

Versus

The Director General, Meteorology Mausam Bhavan, New Delhi and 2 others. Respondent (s)

Mr.George Joseph, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. N.Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *ye*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

MR.N.DHARMADAN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure-A7 order rejecting his request for a transfer to Amini Island.

The order reads as follows:-

"With reference to his application dated 7.4.91 Shri C.Ahmed Koya, SA is informed that his request for transfer to Aminidivi has been duly and carefully considered by the Government but it has not been possible for them to agree to his request."

2. The applicant is at present working as Scientific Assistant, Cyclone Detection Radar Station, Naval Base, Cochin. He is a member of Scheduled Tribe and a native of Bitra Island in the Union Territory of Lakshadweep. He commenced service on 10.7.1979 and worked as Senior Observer in Amini for some time. Later he was transferred to Madras in November 1986. While working at Madras the

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applicant passed the test for promotion as Scientific Assistant in August 1988. Accordingly he was posted as Scientific Assistant on 30.1.1989 to Cochin. The applicant's family is in Bitra Island. One of the children of the applicant is a physically handicapped child and his presence in the family house is necessary. Applicant being a member of the Scheduled Tribe, he is entitled to the benefit of the policy statement regarding the transfer of SC/ST Government employees as contained in Annexures-A2 and A3 letters of the Ministry of Personnel, Public Grievance and Pension. Repeated requests of the applicant for transfer to the Island was not considered. At the same time the applicant reliably understands that there are vacancies in the Island. Hence he filed a detailed representation, Annexure-A6 before the Deputy Director General Meteorology, Madras in which he has stated that there is no disqualification for him to get a transfer to Lakshadweep stations. Being an islander and a member belonging to ST community he is entitled to such a posting in the existing vacancies in the Island. His request for transfer to the Island was not considered with the object of harassing and spoiling his future and family life. The willingness given by the applicant was over looked and compelled others who are at Cochin to go and work in the Island. This is illegal. Without considering any of the contentions raised by the applicant by a laconic order, Annexure-A7, his request was turned down.

3. In the reply filed by the respondents averments of the applicant's were denied and submitted that transfer is an incident of service and out of 13 years of service the applicant was posted at Amóni group of Islands for

more than seven years. Amēni group of islands are remunerative stations, vacancies occurring at those stations are normally filled up by calling volunteers, and suitability of persons for posting in those islands will be determined by the concerned authority while making the postings. Administrative exigency is paramount consideration in making posting to these islands. Since the applicant has served seven years in these islands his case was not considered for a further posting in the Island.

4. The applicant filed a rejoinder and stated that the respondents have not properly examined the grievance of the applicant in the light of Annexures-A2 and A3. The applicant was discriminated against in the matter of posting to Amēni Island in spite of the fact that vacancies are existing there. He has also filed additional rejoinder stating that the respondents are not disclosing the administrative reason for denying transfer to Amini/Minicoy/Agatti islands. He further submitted that a perusal of Annexure-RII produced by the respondents discloses that one Shri A.D.Raman who made a request for transfer to Cochin was transferred to Amēni overlooking his unwillingness to go there whereas the applicant who expressed his option and willingness to work in the Islands was denied the transfer. Hence, according to the applicant the denial of the transfer to the applicant is illegal, arbitrary and discriminatory.


5. We have heard the counsel on both sides. At the time of final hearing the learned Central Government counsel produced for our perusal files dealing with the

request of transfer of the applicant to Lakshadweep islands. The communication of the Ministry of Home Affairs indicates that he has indulged in provocative speeches while working at Am̄ni Island in 1986. Hence it is highly objectionable to ~~post~~ him in the Island.


6. Presumably on the basis of the letters of the Ministry of Home Affairs the applicant was transferred from the Island in 1986. But his working in Madras and Cochin from 1986 to 1992 does not appear to be in a manner as indicated in the letters in the files produced for our perusal. Simply because the applicant has made some provocative speeches in 1986 he should not be denied transfer to his native place permanently. The respondents have not examined the feasibility of giving a further posting to the applicant taking into consideration his service ~~at~~ Madras and Cochin subsequent to his transfer in 1986 from the Island to distant places. The applicant submitted that his working both at Madras and Cochin did not evoke any complaints from higher authorities or other sources and he can be considered for a transfer to his native place in the light of the policy statements of the Government of India contained in Annexures-A2 and A3 and he is eligible to a transfer to his native place to the extent possible under the policy statements issued by the Government of India. Hence he submitted that his case requires a fresh consideration by the respondents.

7. We are of the view that the applicant's request deserves serious consideration by the respondents under the changed circumstances. If ~~he~~ files a further request for a transfer to any of the Islands in Lakshadweep we hope that the respondents will consider and dispose of the

same in accordance with law. In this view of the matter we dispose of the application directing the applicant to file a detailed representation raising his claim for a posting to the Island and also giving sufficient undertaking that he would not indulge in unfair activities or make provocative or objectionable speeches as indicated in the latter of the Ministry of Home Affairs. If such a representation is filed the same may be considered and disposed of by the respondents in accordance with law within a period of two months from the date of receipt of the same. The application is disposed of as above without any order as to costs.


20. 8. 92.

(N.DHARMADAN)
JUDICIAL MEMBER


20. 8. 92

(S.P.MUKERJI)
VICE CHAIRMAN

v/-