

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 551/91 & 199
~~XXXX~~ NO. 552/91

DATE OF DECISION 7.8.92

M.M. George in O.A. 551/91 Applicant (s)
S. Anil Kumar in O.A. 552/91

Mr. M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary to Govt., Ministry of Defence,
New Delhi and others

Mrn. N.N. Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

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

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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

Applicants in these cases are working as Head Draughtsman, Directorate of Installation and Naval Training, (DINT for short) at Cochin under the third respondent. They have been transferred by Annexure A-1 order from Cochin to Bombay. In these applications filed under section 19 of the Administrative Tribunals' Act, they are challenging Annexure A-1 order dated 19.3.91 on various grounds.

2. According to applicants, they have been transferred to Cochin in the year 1983 on their own request on compassionate considerations. The circumstances under which they have been transferred to Cochin in 1983 are even now existing. Their wives are employed in Cochin. Hence, they are entitled to the benefit of the Govt. policy that husband and wife should be posted in the same station to the extent possible. They

have further contended that they have got personal difficulties in moving out of Cochin because of family establishments and personal problems. Even accepting the contention of the respondents that they have been transferred because of the winding up of the DINT in which they are working, respondents should adopt a uniform policy of either transferring persons having longest stay or lesser service in the station for effecting transfer. Though they have submitted representations highlighting their problems in moving out of Kochi, it is without considering their request that they have been transferred. Hence, they have filed this application with the prayer for quashing Annexure-I transfer order and to direct second respondent to consider and dispose of their representation which they have filed before the impugned transfer.

3. Respondents have filed a reply statement in both cases and they have stated that Annexure-I transfer orders have been passed in the exigency of service because of the completion of the work of the DINT. By 30.6.92 the entire work at Trichur was closed and all the Head Draughtsman who were entrusted with the work are to be moved out of Cochin. Hence, these transfer orders were issued in the exigency of service and the applications are liable to be dismissed.

4. Applicants in the rejoinder asserted that Shri V.K. Narayanan, Head Draughtsman is even now retained at Cochin in spite of the fact that they have stated that the entire work in respect of the DINT had been completed at Cochin. Applicants also submitted that there are other vacancies of Sr. Draughtsman in Cochi under the third respondent so as to ~~xxxx~~ accommodate ~~xxxx~~ the applicants in view of the compassionate grounds raised by them.

5. These are not matters coming within the purview of this Tribunal for examination. These matters would have been placed before the Administrative authority for appropriate

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orders. In these cases, applicants have filed representations before the second respondent for their continuance in Cochin even if the DINT is closed as stated by the respondents. Since the representations^{were} submitted only on 14.3.91 and the impugned order was issued on 19.3.91, respondents could not consider the grievances of the applicant before issue of the transfer order. However, in the reply statement filed by the respondents, it has been stated that after the transfer orders were issued, they received the representations and they were considered and disposed of. Learned counsel for the applicants submitted that he is not sure as to whether a communication to this effect is given to the parties. But he submitted that on the facts and circumstances of the case, the matter requires a re-consideration in the light of the fact that vacancies still exists at Cochin and persons senior as also juniors to the applicants are retained at Cochin.

6. Having regard to the facts and circumstances of the case, I am of the view that applicants' grievances as highlighted in their representation were not duly considered by the second respondent at any time in the proper perspective. Even though there is a statement in the reply that the representations have been disposed of, the ~~xxxxxx~~ orders passed by the respondents in this behalf are not produced before me for my perusal, and the nature of disposal of the representations were not explained in the reply statements.

7. Under these circumstances, I am of the view that interest of justice will be met in this case if I dispose of the applications with direction. Accordingly, I direct the applicants to file a detailed representation separately highlighting their grievances before the second respondent within two weeks from today. If such a representation is filed as directed above, the second respondent shall consider and dispose of the same in accordance with law, as

expeditiously as possible, at any rate without any delay.

8. The application is disposed of as indicated above.
9. There will be no order as to costs.


(N. Dharmadan)
Judicial Member
7.8.92

kmm