

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....

O.A. No. 58/94.

Thursday the 21st day of July, 1994.

COBAM:

HON'BLE SHRI S. KASIPANDIAN, ADMINISTRATIVE MEMBER.

HON'BLE SHRI P. SURYAPRAKASAM, JUDICIAL MEMBER.

B.K.Abu Hasim,
Inspector of Works (Civil)
Office of the Asst. Engineer,
Lakshadweep Harbour Works,
MINICOY.

.. Applicant.

(By Advocate Shri Poly Mathai).

Vs.

1.Union of India, repl by Secretary,
Ministry of Surface Transport,
New Delhi.

2.Chief Engineer and Administrator,
Andaman Lakshadweep Harbour Works,
Port Blair, Andaman.

3.Deputy Chief Engineer,
Lakshadweep Harbour Works,
P.O. Kara Paramba, Calicut-10.

4.Assistant Engineer,
Lakshadweep Harbour Works,
Agathi.

5.A. Mohammed, I.O.W.(C),
Lakshadweep Harbour Works,
Minicoy.

.. Respondents.

(By Advocate Shri C. Kochunni Nair, SCGSC. for Respondents 1 to 4)

O R D E R

SHRI S. KASIPANDIAN (A).

Applicant is working as Inspector of Works (Civil) in Minicoy Island. He is aggrieved that he was transferred from Minicoy to Androth in the first instance and then to Agathi without any justification. The learned counsel for the applicant argued that the applicant joined at Minicoy only in the year, 1992.

As per Annexure I, the 5th respondent Shri A. Mohammed who is

also Inspector of Works (Civil) working in Minicoy was transferred to Androth on 29.6.93. On 31.7.93 this transfer order relating to the 5th respondent was cancelled and in his place the applicant was transferred to Androth through a telegraphic order which is at Annexure III.

The learned counsel for the applicant argued that this was done with malafide intention since he joined at Minicoy only in 1992 where as the 5th respondent had joined there in 1987 itself, and the applicant is senior to the 5th respondent. The transfer orders cancelling the original posting of the 5th respondent to Androth and substituting him by the applicant through telegraphic orders, goes to show the malafide of the respondents in effecting the transfer. Counsel also argued that the applicant is due to retire in 1996 and according to the existing guidelines the officers who are having less than three years of service before retirement are entitled to some preferential treatment in choosing the place of posting. He had requested for either retention at Minicoy where he joined in 1992 or transfer to any post in Mangalore because of the reason that he is undergoing medical treatment in proof of which he has supplied medical certificate.

2. The learned counsel for the respondents argued that there is no malafide in the transfer of the applicant from Minicoy to Androth and subsequently to Agathi. The transfer was ordered only in the interest of administration, as his services were required first at Androth where he did not join, and subsequently to Agathi where he is yet to join.


The learned counsel for the respondents quoted decisions of Supreme Court in AIR 1993 Supreme Court 2444 and 1993 Supreme Court 1605 to support his contention that the respondents are entitled to effect transfers in administrative interest and the officers do not have any vested right to continue in one place. He also mentioned that there is air transport facility at Agathi to go to the main land which the applicant can avail of for undergoing medical treatment, if it is necessary.

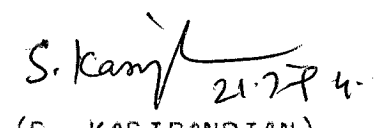
3. After having heard the learned counsel on both sides, we feel that the way the transfer order of the 5th respondent was cancelled hurriedly through telegram despite the fact that the 5th respondent had been working in Minicoy from 1987 onwards whereas the applicant joined at Minicoy only in 1992^{and} despite the fact that the applicant is senior to the 5th respondent, gives sufficient indication that the re-transfer was not done in the normal course. This is also supported by the subsequent fact that the re-transfer of the 5th respondent from Androth to Minicoy was done on the ground that his children were reading in English Medium schools in Minicoy and there were no English medium schools in Androth and the transfer which was effected during the middle of the academic year had therefore to be cancelled. If that was the reason which influenced the re-transfer of the 5th respondent hurriedly, he could have again been transferred after the academic

year was over which has obviously not been done. Moreover, an officer on the eve of retirement undergoing medical treatment has sufficient justification to claim preference over an officer who wants to continue in a particular place for an unduly long time just to educate his children in English Medium schools.

4. For the reasons above stated, we feel that there is sufficient justification for us to interfere in this transfer order which in the normal course does not call for our intervention. We, therefore, quash Annexures V and VI and direct the respondents to give sympathetic consideration to the representation of the applicant either to retain him at Minicoy or to transfer him to Mangalore to enable him to receive proper medical attention since he is entitled to such consideration as a senior employee on the verge of retirement.

5. Application is disposed of with the above directions. There is no order as to costs.


(P. SURYAPRAKASAM)
MEMBER (J)


(S. KASIPANDIAN)
MEMBER (A)

21.7.1994.

LIST OF ANNEXURES

1. Annexure V - A true copy of Telegram dated 2.9.91 by 3rd respondent.
2. Annexure VI - A true copy of Telegram dated 3.12.93 by 3rd respondent.

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