

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 566 of 2002

Friday, this the 9th day of August, 2002

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.N. Gopinathan Nair,
S/o Narayanan Nair,
Draughtsman Grade II,
Office of the Chief Engineer (Zone),
Navy, Kochi, residing at
Lekshmi Nivas, Maruthoorvattom PO,
Cherthala.
2. C.D. Johnson,
S/o Devassy,
Draughtsman Grade II,
Office of the Chief Engineer, Navy, Kochi,
residing at Chethakkal House, Meloor PO,
Chalakkudy. Applicants

[By Advocate Mr. Vishnu S. Chempazhanthiyil]

Versus

1. Chief Engineer (Zonal),
Navy, Naval Base (PO), Kochi.
2. The Chief Engineer, Southern Command,
Engineer Branch, Pune.
3. Engineer-in-Chief,
Army Headquarters, Kashmir House,
New Delhi.
4. Union of India, represented by its
Secretary, Ministry of Defence,
New Delhi. Respondents

[By Advocate Mr. C. Rajendran SCGSC]

The application having been heard on 9-8-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

Applicants were issued with promotion and posting
orders by the 2nd respondent through the 1st respondent, as per
A1 order dated 20-2-2002, which was communicated as per A2
order dated 13-3-2002. Applicants contended that there are

several clear vacancies of Grade-I posts under the 1st respondent and hence transferring them to Ahmedabad was totally against the norms. The place to which the applicants stand transferred, viz. Ahmedabad, is not one of the three choice stations given by them. A1 was thus against the posting/transfer policy in force under the respondents, i.e. A3. It is further contended that according to para 22 of A3, staff on promotion should be adjusted in the same station provided vacancies are available and if the vacancies are not available in the same station, promotees should be sent to any one of the three choice stations. These guidelines were violated. Applicants, therefore, sent representations to the 2nd respondent in the light of para 28 of A3. Copies of the representations are A4 and A5 respectively. The representations are not being considered by the 2nd respondent so far as required in para 28 of A3. It is submitted that it is mandatory as per para 28 of A3 that the applicants are informed of the results of their representation promptly so that they could take up their grievance with the 3rd respondent if the decision of the 2nd respondent is against them. It is also clear from para 28 of A3 that the applicants should be retained till a decision on their representations is communicated to them. The 1st respondent has now issued movement order dated 29-7-2002 (A6), which was received by the 2nd applicant. Applicants also have submitted that their children are studying at Cochin and much hardship will be caused to them in case of transfer and also given an impression that they would be accommodated in the vacancies now available under the 1st respondent. Shifting of the residence with family at this juncture is almost impossible. The 1st applicant did not complete his normal tenure of 3 years under the 1st respondent



when A1 was issued and therefore, they filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

1. Direct the 2nd respondent to consider and pass orders on Annexure A4 and A5 and retain the applicants under the 1st respondent till this is done.
2. Direct the respondents to retain the applicants in the present station till the end of the current academic year.
3. Direct the respondents to accommodate the applicants in the vacancies of Draughtsman Grade I now available under the 1st respondent in modification of Annexure A1.
4. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
5. Award the cost of these proceedings."

2. Shri C.Rajendran, SCGSC entered appearance on behalf of the respondents.

3. When the Original Application came up for hearing today, the counsel for applicants submitted that the respondents may be directed to dispose of A4 and A5 representations. The counsel for respondents submitted that he has no objection in adopting such a course of action.

4. In the circumstances, the 2nd respondent is directed to consider A4 and A5 representations of the applicants and dispose of the same in accordance with the rules, regulations and guidelines on the subject by a speaking order and communicate the orders passed to the applicant as expeditiously as possible, but not later than four months from the date of receipt of a copy of this order. In the interest of justice, as requested by the counsel for applicants, the operation of

the orders of transfer of the applicants may be kept in abeyance till a decision is taken and communicate, on A4 and A5 representations.

5. The Original Application is disposed of as above. No order as to costs.

Friday, this the 9th day of August, 2002



K.V. SACHIDANANDAN
JUDICIAL MEMBER

Ak.

APPENDIX

Applicants' Annexures:

1. A-1 : True copy of the order No.132402/20/2081/EiB (S) dated 20-2-2002 of the 2nd respondent.
2. A-2 : True copy of the order No.140108/1308/E10 dated 13.3.2002 of the K.J.John, AO II.
3. A-3 : True copy of transfer policy bearing No.79040/EIC(i) dated 31.8.94 of the Directorate of Coad & Pers., Engineer-in-Chief's branch, Army Headquarters Kashmir House, DHQ P.O., New Delhi - 110 011
4. A-4 : True copy of the representation dated 14.3.2002 of the 1st applicant to the 2nd respondent.
5. A-5 : True copy of the representation dated 14.3.2002 of the 2nd applicant to the 2nd respondent.
6. A-6 : True copy of order No.192 dated 29.7.2002 of the 1st respondent.
7. A-7 : True photocopy of the fees card issued to the daughter of the 1st applicant.
8. A-8 : True photocopy of the identity cards of the two children of the 2nd applicant.

npp
12.8.02