

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 59/92
T. A. No. ~~199~~

DATE OF DECISION 17-2-92

P.P.S. Dhanjjal Applicant (s)

Mr. P.Santhosh Kumar Advocate for the Applicant (s)

Versus

I.U.O.I rep. by Secretary Respondent (s)

Min. of Defence & 2 others

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V.Krishnan, Member (Administrative)

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

N.V.Krishnan, AM

The question is whether the application may be admitted under Section 19 of the Administrative Tribunals Act, 1985, Act--for short.

2. The applicant is a Superintending Engineer and is Commander Works Engineer, Naval Base, Cochin. He works under the Chief Engineer, Military Engineering Service, Naval Base, Cochin (Respondent-3). It is stated that the span of control of the applicant included the Garrison Engineer, Cochin, Garrison Engineer E/M Cochin, Garrison Engineer (P), Cochin,

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Garrison Engineer (P), Trivandrum and AGE (1), Vijayanarayananam and that this is based on a sanction issued by the President. It is alleged that, contrary to that sanction, the third respondent has initiated action for reorganization of MES, taking away certain divisions, which were under the control of the applicant. The applicant is aggrieved by this order. He has neither produced a copy of this order nor impugned it.

3. He made a representation on 23.12.91 (Annexure-C) to the third respondent from which it is seen that the reorganization was ordered by letters dated 4.12.91 and 19.12.91, The third respondent's reply dated 31.12.91 to this representation is at annexure-D. The main reason for changes made have been stated in this reply. It is made clear therein that the reorganization is consequential to the establishment sanction issued by the second respondent i.e. Engineer-in-Chief, MES, New Delhi, on 8.10.91, according to which only Garrison Engineer, Cochin, Garrison Enginner/EM, Cochin and AGE, Vijayanarayananam are to be under the applicant. It is also stated that even after this reorganization, the workload of the applicant will be Rs 1300 lakhs, which is more than the norm envisaged for a Commander Works Engineer.

4. Not satisfied, the applicant has filed this application seeking the following reliefs:

- (i) To direct the respondents not to re-allocate or take away the divisions held by the applicant in CWE, Cochin.
- (ii) To quash annexure-D order.

5. When the case came up for hearing on 31.1.92, we had serious doubts whether this is a matter in which this Tribunal has any jurisdiction. Shri P.Santosh Kumar, the learned counsel for the applicant argued vehemently and at length, to convince us that this application may be admitted. He pointed

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out that he has a service grievance for the following reason stated in his application:

"The allocation of the establishment is an important matter so far as the applicant is concerned since for further promotion from the CWE to higher post will be evaluated according to his experience and calibre in administering the various establishment under him. If there is no proper allocation of establishment according to the sanction it will lead to a situation diminishing the chance of promotion to higher post for lack of experience in the matter of administration of various branches. Because of these reasons an equitable distribution of work allocation is being followed."

He was asked whether in his representation he had urged this ground to enable respondent-3 to consider it. A perusal of the Ann.C representation shows that this ground has not been raised. He contended that as this was likely to prejudicially affect his promotion chances, it would be a service matter and hence he requested that the application be admitted.

6. In the normal course, after hearing the counsel, I would have rejected the application by passing a short, summary order. However, as I felt that the learned counsel of the applicant was, apparently, not convinced by the views I expressed while hearing the application, I have felt it necessary to pass a somewhat detailed order.

7. The Tribunal's jurisdiction and powers are specified in Section 14 of the Act. Broadly speaking and avoiding details, the Tribunal has jurisdiction over--

- (i) recruitment and matters concerning recruitment to established services or to posts not included in such services; and
- (ii) 'service matters' concerning members of such services or persons holding posts not included in any service.

The expression 'service matter' is defined in Section 2 of the Act. Basically, 'service matter' means all matters relating to conditions of service.

8. Therefore, the question I have to consider is whether - the allocation of work to the applicant or removal of some work from him is a 'condition of service' to be adjudicated by this Tribunal or it is wholly an administrative matter to be finally decided by the competent administrative authorities only.

9. In this connection, I got a negative reply from the learned counsel for the applicant to the question whether the applicant's pay has been reduced or he has been transferred or has been reprimanded for bad work and told that he could not be depended upon to deliver the goods i.e. whether any stigma has been cast. His only apprehension is that this might stand in the way of his future promotion. When it was pointed out that only when this matter stood in his way of promotion he could have a grievance, he was not convinced.

10. Frankly, I did not feel the need for hearing the counsel for the respondents in this case. As a matter of fact, the impugned Annexure-D reply sets out in detail why certain organizations have been taken way from the applicant and given to Command Works Engineer (NW). It assures the applicant that despite this truncated jurisdiction, he would still have enough workload.

11. I have to make it clear that the Tribunal's jurisdiction is circumscribed by section 14 of the Act. It is not that each and every decision of the administrative authorities can be subjected to judicial review. Decisions not connected with recruitment or conditions of service cannot be questioned before us. Thus, if the applicant restricts the supply of, say, pencils to his stenographer to only 2 per month, or the 3rd respondent refuses permission to the applicant to go on official tour or the 2nd respondent turns down the applicant's proposal to buy, say, a crane, these are all matters entirely within the purview of the administrative authorities. The aggrieved party will have to seek remedies only within the administrative hierarchy. The subject matter of the present applicant is one which does not concern any condition of service.

12. In the circumstances, I find that this application cannot be admitted and hence it is dismissed in limine.

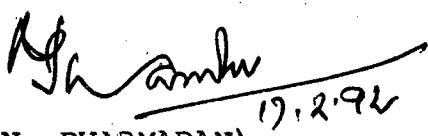
N.V. Krishnan
17.2.82

(N.V.Krishnan)
Member (Administrative)

MR. N. DHARMADAN, JUDICIAL MEMBER

12. I am also of the view that this application is to be dismissed in limine without issuing notice to the respondents. I agree with the conclusion of my learned brother but I think I must give my reasons for rejection of the application.

13. The main grievance of the applicant is based only on his apprehension. The applicant's apprehension that due to the steps initiated by the third respondent for re-organisation of the MES by taking away some of the divisions which were hitherto under the control of the applicant, his chance of promotion will be affected. It will reduce his chance of acquiring more experience and thereby gain a better right for promotion at an early date.. According to the applicant, the action of the third respondent is illegal and will stand in the way of the applicant in getting promotion as indicated above. This will not come within the purview of the legal grievance and part of condition of service so as to agitate the matter before the Tribunal under section 19 of the Administrative Tribunals' Act. Accordingly, this application deserves to be dismissed at the admission stage itself.


19.2.92
(N. DHARMADAN)
JUDICIAL MEMBER

ORDER OF THE BENCH

The application is dismissed in limine.

N.Dharmadan 17.2.92
(N.Dharmadan)
Member (Judicial)

N.V.Krishnan 17.2.82
(N.V.Krishnan)
Member (Administrative)

17.2.92