

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 584 of 2003

Friday, this the 5th day of December, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. V.P. Jayanandan,
S/o late Raghavan,
Junior Engineer (Civil),
Lakshadweep Harbour Works, Mangalore
Permanently residing at "Rejishma",
Pavayil, Thalakulathoor Post,
Calicut - 673 317 Applicant

[By Advocate Mr. Shafik M.A]

Versus

1. Union of India, represented by
Secretary, Ministry of Shipping,
New Delhi.
2. The Chief Engineer & Administrator,
Andaman & Lakshadweep Harbour Works,
Post Box No.161, Port Blair - 744 101
3. The Deputy Chief Engineer,
Andaman & Lakshadweep Harbour Works,
U.T. of Lakshadweep, Kavaratti.
4. The Administrative Officer (ALHW),
Office of the Chief Engineer & Administrator,
Andaman & Lakshadweep Harbour Works,
Post Box No.161, Port Blair-744101 Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 5-12-2003, the
Tribunal on the same day delivered the following:

O R D E R

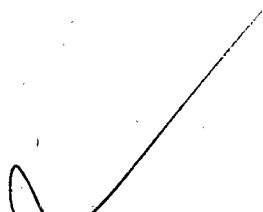
HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, Junior Engineer (Civil), Lakshadweep
Harbour Works, who entered service in the year 1971 as a
Recorder Assistant, after about 32 years of service for the
first time got a posting to the mainland by order dated

22-5-2003 (Annexure A2). Availing of his joining time, the applicant took charge of the post at Mangalore in June, 2003. To his dismay, he found Annexure A1 order dated 2-7-2003 cancelling the order of his transfer to Mangalore and directing him to report back to Andrott after completion of the loading work of materials at Mangalore to Maldives. Aggrieved by this, the applicant has filed this application seeking to set aside the impugned order Annexure A1, declaring that the applicant is entitled to continue in the present station as per Annexure A2. It is alleged that the cancellation of the posting to Mangalore where his daughter is studying all of a sudden after he has joined there is arbitrary, irrational and cruel and it does not serve any public interest.

2. Respondents contend that the applicant was posted to Mangalore to handle some additional work expecting that a further work of the nature would ensue and that finding that such work was not forthcoming and as there was a requirement to accommodate one Sri Basavaraja, in whose favour the National Commission for Scheduled Castes and Scheduled Tribes made a recommendation, the applicant had to be sent back to Andrott. This having been done in public interest, the Tribunal may not interfere, plead the respondents.

3. The applicant has filed a rejoinder reiterating his claim in the OA and contending that it was against an open vacancy that he was transferred to Mangalore and the averments to the contrary in the reply statement are false.



4. We have carefully gone through the entire facts and circumstances brought out in the pleadings and also the submissions made by the learned counsel on either side. For a variety of reasons, we find that the impugned order is not sustainable. Firstly, the applicant's transfer by Annexure A2 order had already taken place by the applicant by joining the post of Junior Engineer (Civil) at Mangalore. If the order had to be cancelled, it should have been cancelled before he took charge of the post. After the applicant had joined at Mangalore giving effect to the order of transfer, what could have been done was only a re-transfer of the applicant, if exigencies of service required such an action. Therefore, on that score alone, the impugned order of cancellation of Annexure A2 order would not stand. Secondly, we find that the attempt to justify the cancellation of the transfer of the applicant by the impugned order on the ground that the applicant was posted at Mangalore to handle some urgent and additional work and that as such further work did not arise it became necessary to transfer the applicant back does not appeal to reason because if that had been the reason for posting the applicant at Mangalore, it should have been indicated that the transfer was temporary for a specific purpose. This having not been done and as it was stated that the posting was against a post vacated by Basavaraj, it is idle to contend that the transfer was for some special purpose. Thirdly, the respondents have not been able to show what public interest has been served by displacing the applicant immediately after he had given effect to his transfer at government costs and putting him to undue hardship and inconvenience. That the

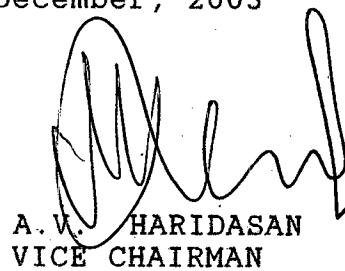
Commission for Scheduled Castes and Scheduled Tribes had recommended consideration of the request of Basavaraja for a posting to Mangalore did not create an emergent exigency.

5. In the light of what is stated above, the Original Application is allowed. The impugned order Annexure A1 dated 2-7-2003 is set aside. No order as to costs.

Friday, this the 5th day of December, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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