

9.11.1987

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A. 601/87

M.K. Ammini
&
T.R. Pankajakshy
Vs.

Applicants

1. The Chief of the Naval Staff,
Naval Headquarters, New Delhi
2. The Flag Officer Commanding-
in-Chief, Headquarters,
Southern Naval Command,
Cochin-682004

Respondents

Shri M. Girija Vallabhan

Counsel for the
applicants

Shri K. Karthikeya Panicker, ACGSC

Counsel for the
respondents

CORAM:

Hon'ble Shri Justice G. Ramanujam, Vice Chairman

&

Hon'ble Shri C. Venkataraman, Administrative Member

(Order pronounced by the Hon'ble Vice Chairman)

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The applicants herein who are Lower Division Clerks in the Headquarters, Southern Naval Command, Cochin have been transferred on deputation to the Naval Headquarters, Delhi against 5% quota allotted to the Southern Naval Command, Cochin. The learned counsel for the applicants contents that normally transfer on deputation can only be with the consent of the person concerned, and in this case the applicants were never consulted and the applicants did not give option for going on deputation. The learned

counsel however stated before us that even before regularisation of the applicants as Lower Division Clerks, an undertaking was taken by them agreeing to go on deputation to New Delhi. But he says that such an undertaking was taken on compulsion. The question whether the undertaking given by the applicants was under duress or compulsion cannot be investigated in this proceedings. If the applicants have challenged the taking of undertaking then and there on the ground that the undertaking given by them was under coercion, it would have been a different matter. Now that the order of transfer on deputation has been passed on the basis of the said undertaking within the 5% quota allotted to the Southern Naval Command, the applicants cannot now question the taking of the undertaking.

2. The applicants' counsel says that the applicants will be put to considerable hardship if the order of transfer on deputation is given effect to. If such hardship is taken into account, every transfer order can be questioned on that ground, and there cannot be any valid transfer order at all as every order of transfer, except in cases where the transfer is at the request of the employee, will lead to hardship and that may be a ground for setting aside the order of transfer.

3. The learned counsel also points out that under the Service Rules, there is no provision for transfer

to the Naval Headquarters. But the learned Counsel is not in a position to produce the relevant rules on which he places reliance, even though the case stood adjourned mainly for that purpose. The learned counsel is also not in a position to refer to any instructions issued by the Government of India or any other higher authority which is said to have been offended by the passing of the impugned order of transfer.

4. The learned counsel then says that the applications may be admitted and notice issued to the respondents to produce the rules. We are not inclined to do so as it is for the applicants to show that their service is not a transferable service by producing the conditions of service under which they are appointed. In this view we are not in a position to entertain this application which is directed against the order of transfer.

5. The application is dismissed.



(C. Venkataraman)
Administrative Member
9.11.87



(G. Ramanujam)
Vice Chairman
9.11.87

Index: Yes/No