

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
XXXXXX

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1990

DATE OF DECISION 31.12.90

K. Lakshmanan _____ Applicant (s)

Mr. E. V. Nayanan _____ Advocate for the Applicant (s)

Versus

The Chief General Manager, Telecom, Trivandrum & 2 others. Respondent (s)

Mr. V. V. Sidharthan, ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. Mukerji, Vice Chairman

The Hon'ble Mr. A. V. Haridasan, Judicial Member

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

(Shri S. P. Mukerji, Vice Chairman)

This is the second time that the applicant, who has been working as Telephone Inspector at Cannanore, has moved this Tribunal by this application dated 24.1.90 for being retained at Cannanore or any other nearby place on compassionate grounds. The applicant is a member of the Scheduled Caste and is a native of Cannanore and has adverted to a number of domestic problems which necessitate his being posted at Cannanore or a nearby place as a Telephone Inspector. According to him, his elder girl child who is 3½ years of old is suffering from epileptic fits and is undergoing treatment by a Child Specialist at Cannanore. He himself has been suffering from a number of physical ailments for which frequent medical check-ups

are necessary. He joined the Telephone Department in 1974 and on promotion posted as Telephone Inspector at Chengala on 7.10.86. On 14.6.88 he applied for a temporary transfer ^{to Cannanore} on the ground of his wife's delivery expected in August 1988, and the competent authority granted him a temporary transfer for 3 months from 6.7.88. The applicant, on 17.9.88, applied for extension of his temporary transfer for another six months on the ground of sickness of his children, and a further extension of 3 months was granted. The temporary transfer was further extended till 19.10.89. Thereafter, the applicant was posted back to Chengala. Instead of joining at Chengala, the applicant went on leave on medical certificate and represented to the Chief General Manager direct, avoiding the DGM, Cannanore who had granted the temporary transfer. Without waiting for disposal of his representation, the applicant approached the Tribunal which, in OA 703/89, passed judgement dated 1.12.89, directing that the applicant's representation dated 25.10.89 should be disposed of as far as possible in human ^{terms}, keeping in view his request that he may be transferred either to Cannanore or to Baliapattom, and that a speaking order should be issued. Accordingly, the Chief General Manager passed the impugned order dated 5.1.90 at Annexure-VIII disposing of the representation with the direction that the applicant should report to join at Chengala by 1st February 1990. The present application has been filed against this order.

2. The applicant's contention is that vacancies are available in Cannanore or nearby stations where he could be accommodated, and by posting him at Chengala from where Kazaragod is 12 Kms. away and Cannanore where his child is getting treatment is 100 Kms. farther, his child's treatment will suffer. He has rebutted the argument of the

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respondents in the impugned order that the applicant has not submitted any medical re-imbursement bill which shows that the plea of medical treatment of his child is not genuine, by stating that since his daughter is being treated by a private medical practitioner for which no re-imbursement is permissible, the applicant did not submit any re-imbursement claim. The applicant has alleged that the assurance given in the impugned order that the applicant's request for regular transfer to Cannanore will be considered in due course as and when a substitute is available for posting at Chengala, is hollow as the recruitment of Phone Inspectors has been banned and no training course is being conducted by the Department and, therefore, the prospects of a substitute ^{being available} are very remote. He has also referred to a circular issued by the Government of India (Annexure-XII) to urge that the policy is to post SC and ST officials ^{holding} in Group 'C' and 'D' posts, as far as possible, near their native place. It has also been mentioned that one Shri Thomas, who was allotted to Kazaragod region, was given a transfer to Cannanore region, while the applicant has not been accommodated ^{holding} in spite of his genuine difficulties.

3. The respondents have stated that the applicant had been very generously accommodated by extending his temporary transfer from Chengala to Cannanore by giving him several extensions and his temporary transfer continued for 14 months. During this period no substitute could be posted at Chengala where the applicant had been posted and better services to the public could not be provided from the Chengala Telephone Exchange. Regarding Shri Thomas, they have clarified that he was not transferred from Kazaragod

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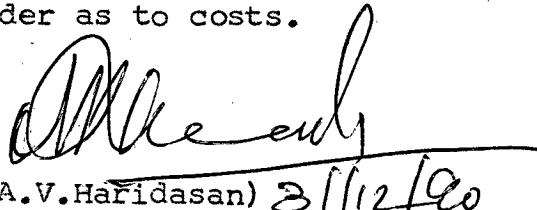
to Cannanore. He was posted at Edakkad, near Cannanore, where he joined on 14.5.88. The applicant's first request was for a posting at Cannanore which was registered on 19.5.87. They have further indicated that the circular of the Department of Personnel at Annexure-XII refers to the posting of ST candidates near their native place, whereas the applicant is not a ST but a SC candidate.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The applicant, who was posted at Chengala on 7.10.86, requested for temporary transfer to Cannanore for 6 months only on 14.6.88 on the ground of his wife's delivery. At that time, he did not refer to the sickness of his child. He was allowed to stay at Cannanore by a number of extensions for 14 months till 19.10.89, by making stop-gap arrangements for running the MAX-II Exchange at Chengala where the services of the applicant as Phone Inspector ^{were} _h required in public service. The applicant's own illness also does not appear to be very serious, as he had not claimed any re-imbursement of medical expenses for either himself or any member of his family during the last one year, as indicated in the impugned order.

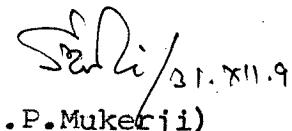
5. In the circumstances and in view of the assurance given by the respondents that "his request for regular transfer can be considered when substitute arrangements can be made", we dispose of this application with the direction that the applicant being a member of the SC community with a sick daughter, should be considered for

transfer to Cannanore or nearby places after he puts in
3 years of actual service at Chengala with effect from
August 1986, excluding the period he had remained posted
out of Chengala from 6.7.88 till he reports for duty
at Chengala.

6. In the circumstances of the case, there will be
no order as to costs.


(A.V. Haridasan)

Judicial Member


(S.P. Mukerji)

Vice Chairman

31.12.90