

1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO.96/2009

Friday this, the 8th day of January,2010

CORAM:

HON'BLE SRI K.GEORGE JOSEPH, MEMBER(A)

Jacob Antony, aged 53 years,
S/o K.J.Antony,
U.D.C., Command Quartering Office,
Headquarters, Southern Naval Command,
Kochi.(residing at Konnothu House,
Chakkalakkal Road, Perumanoor,
Kochi.15).

.. Applicant

By Advocate :Mr. P.A.Kumaran for Shri N.Mahesh

vs.

1. Union of India represented
By the Secretary, Ministry of Defence,
New Delhi.
2. The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Kochi 682 004.
3. The Commanding-in Chief Staff Officer(P&A),
Southern Naval Command,
Kochi-682 004.
4. The Administrative Officer,
Grade II, Staff Officer,
(Civilian Personnel),
Southern Naval Command,
Kochi.682 004.

... Respondents

By Advocate:Sri Sunil Jose, SCGSC

The application having been heard on 08.01.2010,the Tribunal on the same day
delivered the following:-

ORDER

HON'BLE MR.K.GEORGE JOSEPH, MEMBER(A):

This O.A. is filed by the applicant praying for the following reliefs:-

- i. Declare that the action of the respondents in transferring the applicant as stated in Annexure A2 is totally arbitrary, discriminatory and unconstitutional.
- ii. Call for the records leading to Annexure A2 and A5 and quash the same.
- iii. Direct the respondents to retain the applicant in Command Quartering Office, Headquarters, Southern Naval Command, Kochi.
- iv. Direct the respondents to cancel the transfer of the applicant as seen in Annexure A2.
- v. To grant such other relief or reliefs that may be urged at the time of hearing or that the Honourable Tribunal may deem fit to be just and proper.
- vi. Cost of this Original Application.

2. The applicant joined the Southern Naval Command at Kochi as Lower Division Clerk in the year 1981. Now he is working as U.D.C. He has been transferred from Non Industrial Unit to an Industrial Unit of the Naval Command at Kochi as per Annexure A2 order dated 10th December, 2008. This transfer has caused him personal inconvenience. He is a widower with two school going children and an aged mother. His representation to respondent No.2 for cancellation of his transfer was rejected. Hence the O.A.

3. The applicant contends that his transfer is in violation of Annexure A1 memorandum which lists guidelines/norms for the transfer of ministerial staff because he is not retained in the Office of the Command Quartering Office upto 2010 and he has been transferred three times within a span of 8 years. His request for cancellation of his transfer was rejected on the ground that it would affect the chain move of transfers. But the transfer of employees listed at Sl.No.60 to 64 in Annexure-2 are deferred up to 31st March, 2009 for no reasons.

4. The respondents contested the O.A. The applicant is transferred to Base Victualling Yard, Kochi, which is an Industrial Unit after a tenure of 6 years and 9

months in Command Quartering Office which is a Non Industrial Department where the applicant had earlier served for 16 years continuously from July 1984 to October, 2000. Out of total 27 years of service he has served about 23 years in the Command Quartering Office. Hence there is no discrimination in his transfer. The Industrial Units observe 6 day week, but total working hours in a day are 45 minutes lesser than that of Non Industrial Units, which observe 5 day week. The rotation of clerical staff from Industrial Units to Non Industrial Units and vice versa is with a view to develop professional skill. Para 1(k) of Annexure-1 stipulates that the appointing authority is vested with the right to transfer any employee on administrative ground and will have discretionary power either to retain or transfer any employee on administrative reasons/ exigencies of service. The unit from which the applicant is transferred and the unit to which he is transferred are located inside the Naval Base within a radius of 1 K.M.; no considerable variation in the routine being followed by both the units. The tenure of service of 5 to 7 years in a unit actually means the service rendered even in various units where same routine is being followed. The personnel placed at Sl.Nos. 60 to 64 in Annexure-2 order are dealing with very important subjects in the Headquarters and proper handing/taking over is necessary prior to their move from the respective stations. Therefore the O.A. should be dismissed.

5. Perused the documents and heard the counsels.

6. A transfer within a radius of 1 K.M. entailing not much variation in the routine should not be a cause for litigation. The transfer of the applicant who has spent 23 years out of 27 years of service in a Non Industrial Unit to an Industrial Unit cannot be treated as a case of discrimination. None of the provisions of the guidelines on transfer is violated. The personal inconvenience to look after the applicant's family on account of the transfer is untenable. The O.A. lacks substance. Devoid of merit, the O.A. is dismissed. No order as to costs.



(K. GEORGE JOSEPH)
MEMBER(A)

/njj/