

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 116 of 1993.

DATE OF DECISION 21-1-1993

Mr PKD Nair Applicant (s)

Mr CP Ravindranath Advocate for the Applicant (s)

Versus

Flag Officer Commanding in- Respondent (s)  
Chief, Southern Naval Command, Kochi & 3 others

Mr George CP Tharakan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. SP MUKERJI, VICE CHAIRMAN

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

## JUDGEMENT

(Hon'ble Shri SP Mukerji, Vice Chairman)

We have heard the learned counsel for the parties on this application in which the applicant has challenged his transfer from the Naval Air Craft Yard at Willington Island in Cochin to INS, Dronacharya at Fort Cochin which ~~is~~ according to the learned counsel for the applicant himself is within a distance of 12 KMs. The applicant has challenged the transfer not so much on the basis of the change of station which is not there, but on the ground that the transfer is malafide, that a show cause notice ~~was~~ <sup>had been</sup> issued ~~on~~ <sup>to</sup> the applicant for his misbehaviour towards some officers and that by his transfer the INS

Dronacharya, the applicant will be prevented from <sup>participating in</sup> working ~~in~~ the Union activities.

2. When the case came up for admission on 19.1.1993, we directed the learned counsel for the respondents to clarify why the impugned order of transfer <sup>at the same station</sup> was sent to the applicant telegraphically. The learned counsel for the respondents clarified today that the order of transfer was passed on 12.1.1993 and it was read out to the applicant on that very date, but since the applicant refused to accept the order of transfer, the same had to be sent by registered post and also by telegram.

3. Having heard the learned counsel for both the parties, we are convinced that the application does not warrant any judicial intervention. Even assuming that there was some unpleasant situation between the applicant and the 4th respondent, it is upto the respondents <sup>to</sup> transfer the applicant to a nearby place to avoid any further unpleasantness <sup>arising out</sup> ~~because~~ of the continued presence of the applicant. The learned counsel for the applicant states that the impugned order of transfer does not involve change of station and thus according to us, there is no dislocation of the family and the education of the children or any other difficulty in the family life of the applicant which can be in any manner be considered to be a hardship unnecessarily caused to the applicant. Even transfer to distant places of a transferable officer has been considered to be an incident of service and has to be <sup>accepted</sup> ~~gone by~~ <sup>then</sup> as a

part of the~~se~~ obligation in public service. The only hardship which has been indicated by the applicant by the transfer order is that he will be prevented from continuing his Union activities. If posting at a particular place involves certain restriction in service matters, these restrictions will have to be <sup>borne by</sup> ~~gone by~~ any disciplined official in public service. If the applicant feels that ~~the~~ preventing him from union activities in INS Dronacharya is an infraction of his fundamental right, he is at liberty to move appropriate legal forum, <sup>in accordance with law</sup> if ~~so~~ advised. The learned counsel for the applicant urges that there are 4 other similar offices where the applicant can be transferred. It is for the employer to determine how the persons employed under him should be deployed in the larger interest of the organisation. In any case the applicant is always at liberty to seek the indulgence of his employer to post him to any other place.

4. In the above light, we do not see any force in the application, <sup>and</sup> ~~we~~ reject the same under Section 19(3) of the <sup>Administrative</sup> ~~A.T.~~ Act.

<sup>2</sup> Tribunals Act.

  
(AV HARIDASAN)  
JUDICIAL MEMBER

 21-1-93.  
(SP MUKERJI)  
VICE CHAIRMAN

21-1-1993

trs