

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.130/98

Friday, this the 23rd day of January, 1998.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

HON'BLE MR SK GHOSAL, ADMINISTRATIVE MEMBER

G Venugopalakrishnan Nair,
MES, A/No.1430778,
Stenographer,
Personnal Assistant to Chief Engineer,
O/o the Chief Engineer Navy,
Naval Base.P.O.
Kochi-4.

- Applicant

By Advocate Mr PC Chacko

Vs

1. The Engineer-in-Chief,
Army Headquarters,
Defence Head Quarters,
New Delhi.
2. The Chief Engineer,
Head Quarters,
Southern Command,
Pune-1.
3. The Chief Engineer,
Navy, Naval Base,
Kochi-4.
4. Valsala P Nair,
Stenographer,
O/o the Additional Chief Engineer,
Chief Engineer Navy, Kochi-4. - Respondents

By Advocate Mr S Radhakrishnan, ACGSC (for R.1 to 3)

The application having been heard on 23.1.98 the
Tribunal on the same day delivered the following:

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O R D E R

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

The applicant, a Stenographer Grade-III in the office of the third respondent was by order dated 13.2.92(A-3) required to lookafter the duties of the P.A. to Chief Engineer until further orders. The applicant is therefore lookingafter the said duties. Claiming upgradation to the post of Stenographer Grade-II, the applicant had filed O.A.1333/96 which is pending before this Tribunal. While so the applicant was, by order dated 29.4.97(A-8) transferred to Ahmedabad...On the ground that his son was studying in the XIIth standard and on many other grounds the applicant requested for deferment of his transfer. This request was recommended by the Chief Engineer stating that the grounds mentioned were genuine. Accepting the recommendations of the Chief Engineer and agreeing to the request made by the applicant, by an order dated 2.12.97(A-9), the applicant was informed that his request for deferment of transfer has been acceded to, that his transfer has been deferred till 31st December, 1997 and that his name would be struck off from the roll on 31st December, 1997. Thereafter the applicant made another representation for cancellation of the transfer which was turned down by order dated 17.1.98(A-15). Pursuant to the order at A-15, the impugned order at A-16 dated 19.1.98 for the movement of the

applicant by 30.1.98 has been issued. The applicant is aggrieved by his transfer to Ahmedabad as Stenographer Grade-III and also by the alleged intention of the official respondents to appoint in his place the 4th respondent, who according to the applicant, is not eligible to be appointed as P.A. to Chief Engineer. The applicant claims that he is holding the post of P.A. to Chief Engineer and therefore he cannot be legally transferred as Stenographer Grade-III to Ahmedabad. He has also alleged that the 4th respondent who is an optee to the clerical cadre is not eligible to hold the post of P.A. to Chief Engineer and that therefore the proposed appointment of the 4th respondent as P.A. to Chief Engineer is illegal. With these allegations the applicant has filed this application for having the impugned order struck down, for a declaration that he is eligible to be continued in the promotional post of Personal Assistant (Stenographer) which he was holding for the last six years and also to direct the official respondents that till the final disposal of the O.A., the applicant shall not be shifted from the present posting.

2. We have very carefully gone through the pleadings in its entirety as also the materials placed on record and have heard the learned counsel on either side.

3. The basic point of the applicant that has to establish for claiming a declaration that he is entitled to continue in the post of P.A. to Chief Engineer is that he has been so appointed. The only order basing on which the applicant claims to be holding the post is A-3. It is worthwhile to extract A-3 for easy reference:

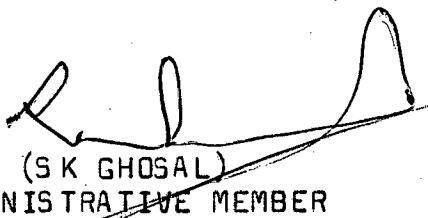
"Consequent on permanent transfer of MES 312223 Shri PK Radhakrishnan Nair (OS I Desig) to CE SC Pune w.e.f. 14.2.92 A.N.A 14307778 Shri Venu-gopalakrishnan Nair Steno III will lookafter the duties of PA to CE until further orders."

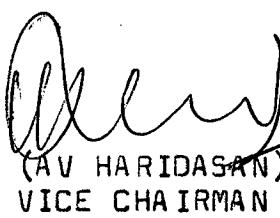
It is evident from the above quoted extract that the applicant is a Stenographer Grade-III and he has been asked to lookafter the duties of the post of P.A. to Chief Engineer until further orders. As the applicant has not even been appointed on ad hoc basis as P.A. to Chief Engineer, there is no basis for his claim for a declaration that he is entitled to continue in the post of P.A. As a Stenographer Grade-III his transfer to Ahmedabad on an equivalent post cannot at all be faulted. The further prayer of the applicant that the respondents have to be directed to retain applicant in the present posting till the disposal of the O.A.1333/96 also is not even prima facie tenable as the issue involved in that case has nothing to do with the posting of the applicant as P.A. to Chief Engineer. If the applicant is found to be entitled for the upgraded post of Stenographer Grade-II as prayed for by him in

O.R.1333/96, he may get the consequential benefits after the disposal of the said O.A. For that reason, it is not necessary to direct the respondents to retain the applicant as P.A. to Chief Engineer or in the present posting. In the order by which the applicant was put to lookafter the duties of the P.A. to Chief Engineer itself it had been made clear that it was only until further orders. This present order of transferring the applicant being a further order, the applicant does not have a legitimate grievance. The next prayer of the applicant for a declaration that the 4th respondent is not entitled to be appointed as P.A. to Chief Engineer is also not maintainable, firstly, as the applicant is not an aggrieved person as he is neither holding that post nor is the next person to be considered for such appointment and secondly, since there is no order appointing the 4th respondent as P.A. to Chief Engineer has been issued.

5. In the conspectus of facts and circumstances as mentioned above, we find little in this application which requires further deliberation. The application is therefore rejected under Section 19(3) of the Administrative Tribunals Act. No costs.

Dated, the 23rd January, 1998.


(S K GHOSAL)
ADMINISTRATIVE MEMBER


(A V HARIDASAN)
VICE CHAIRMAN

11

LIST OF ANNEXURES

1. Annexure A-3 : Office order No. 23 dt. 13-2-92 issued by 3rd respondent.
2. Annexure A-8 : Order No. 132402/97/State/02/EIB(S) dt. 29-4-97 issued by the 2nd respondent.
3. Annexure A-9 : Order No. 140110/6399/E10 dt. 2-2-97 issued by the 3rd respondent.
4. Annexure A-15 : Letter No. 140110/6418/E10 dt. 17-1-98 issued by the 3rd respondent.

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