

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.176/2001.

Thursday this the 7th day of March 2002.

**CORAM:**

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

1. Union of India, represented by the Administrator, Lakshadweep, Kavarathi.
2. The Director of Fisheries, Department of Fisheries, Agatti Island, Pin-682 553. Respondents

(By Advocate Shri S.Radhakrishnan)

The application having been heard on 7th March 2002 the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant a Fisheries Inspector, Village Dweep Panchayat, Chetlat and a native of Chetlat Island belongs to Scheduled Tribe and <sup>is</sup> ~~due to~~ retire from service on superannuation on 6.7.2003 has filed this application impugning the order dated 23.11.00 (A3) by which he was transferred and posted to Agati Island as Fisheries Inspector. It is alleged in the application that he had been harassed by frequent transfers and it was in the year 1990 that he was transferred to Chetlat where he was allowed to stay for a fairly long time, that the transfer of the applicant at the tail end of his career would bring to bear on him undue suffering as his wife is mentally deranged, that he himself is suffering from heart disease and as his child is studying in Pre-degree class. Explaining his difficulties the applicant made a representation A-4 to the first respondent on

5.2.2001. However, before the representation could be disposed of by the first respondent, apprehending that the applicant would be relieved, the applicant filed this O.A. seeking to quash A-3 order and for a direction to the respondents not to transfer the applicant from Chetlat to any other Island. On 27.2.2001, an interim order was issued directing the respondents that the operation of the impugned order should be kept in abeyance till the disposal of the O.A. However, the O.A. was dismissed for default by order dated 11th October, 2001. Allowing the M.A.1363/01 and M.A.1364/01 the Original Application was restored to file and the status quo as on that date regarding the posting of the applicant was ordered to be maintained.

2. The respondents in their reply statement contend that the transfer has been made in public interest. The allegations of harassment have been denied.

3. When the O.A. came up for final hearing today, none appeared for the applicant. Shri S. Radhakrishnan appeared for the respondents.

4. I have carefully gone through the application and the Annexures appended thereto and the contentions of the respondents in the reply statement and have heard the learned counsel of the respondents. Transfer being an incident of service, judicial intervention in routine administrative matters like transfer can be justified only if it is made out that the order is vitiated by malafides or total arbitrariness. Therefore, an interference by the Tribunal with the impugned order does not appear to be called for. However, the representation submitted by the applicant to the first respondent for recalling the order of transfer has not

been considered by the first respondent though in the reply statement it is stated that the representation received in the Directorate was rejected. Since the representation was made not to the Director or Assistant Director but to the Administrator, rejection by the Directorate would not be proper. The representation should have been considered by the first respondent, the Administrator. Since the impugned order of transfer has not so far been given effect to and as there is an interim order, I am of the considered view that the interests of justice would be met, if the first respondent is directed to consider the representation (A4) submitted by the applicant taking into account the family background of the applicant, his health condition and other relevant factors projected in the representation and to give him an appropriate reply within a short time keeping the operation of the impugned order in abeyance.

5. In the light of what is stated above, the application is disposed of directing the first respondent to consider A-4 representation made by the applicant taking into account that the applicant has got only a short time to retire and the family problems and health problems projected in the representation of the applicant and to give him an appropriate reply as expeditiously as possible. I also direct that till a decision of the first respondent on the representation is communicated to him, the applicant shall not be disturbed from the present place of posting. No order as to costs.

Dated the 7th March, 2002.

  
A.V. HARIDASAN  
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the certificate issued by the Specialist dated 27.10.2000.
2. A-2: True copy of the test, report and case summary issued by the department of Cardiology, Medical College Hospital, Trivandrum dated 15.12.2000.
3. A-3: True copy of the impugned order dated 23.11.2000 transferring the petitioner to VDP, Agatti.
4. A-4: True copy of the representation submitted by the applicant before the 1st respondent dated 5.2.2001.

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