

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 242 of 1992.

DATE OF DECISION 27-1-1993

P Devadas _____ Applicant (s)

Mr MC Sen _____ Advocate for the Applicant (s)

Union of India rep. Secretary,
to Govt. of India, Ministry Respondent (s)
of External Affairs, New Delhi
and another

Mr P Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N Dharmadan, Judicial Member
and

The Hon'ble Mr. R Rangarajan, Administrative 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 N. Dharmadan, J.M

The applicant is presently working as Lower Division Clerk in the Passport Office at Kozhikode under the Respondent-2. His grievance is against the impugned transfer order dated 7.2.92 at Annexure-A by which he has been relieved from his duties in the office at Kozhikode with effect from 7.2.1992 on the basis of a letter dated 4.2.92 received from the Ministry of External Affairs.

2 According to the applicant, he is working in the said Office at Kozhikode from 1981. His wife is also working in the same office as Lower Division Clerk. In 1989, another LD Clerk named Smt Sumitha, has filed a complaint against the applicant and the Passport Officer has shown two letters dated 10.8.89 and 1.9.89 alleged to have been sent by Smt. Sumitha raising some allegation against the applicant.

According to the applicant Smt Sumitha and her husband are harrassing him through the Circle Inspector of Police. However, the Passport Officer on 29.10.90 warned the applicant. The applicant alleges that this warning was made at the instance of Smt Sumitha. The applicant has filed DA 1242/91 against the warning apprehending that the warning would be incorporated in the service records having adverse effect. When the notice was received, the Passport Officer submitted before the Tribunal that the warning could not be endorsed in the service records and accordingly, the application was closed. Latter, the applicant had filed OS 385/91 before the Additional Sub Court, Kozhikode against the husband of Smt Sumitha which is pending. Since the harrassment against the applicant was continuing, the applicant filed Annexure-B letter dated 5.2.92 before the Passport Officer requesting him to take appropriate action against Smt Sumitha and her husband. In the meantime, the applicant was served with Annexure-A dated 7.2.92 relieving him from the duties with effect from the same day i.e. from 7.2.92. In the circumstances, the applicant has filed this O.A. under Section 19 of the Administrative Tribunals' Act of 1985 for quashing the impugned Annexure A order dated 7.2.92. He has also filed Annexure-D representation on the same day before the Joint Secretary (CPV) & Chief Passport Officer, Ministry of External Affairs, New Delhi. The said representation has not been disposed of so far.

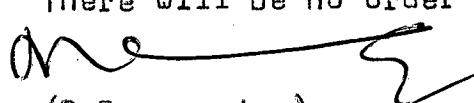
3 Respondents have filed a reply statement stating that the transfer has been made in the exigency of service. It is further stated that the complaint of Smt Sumitha and the further action have not influenced the authorities in any manner. According to them, the application is liable to be dismissed, but they have not produced copy of the transfer order.

4 Applicant has filed a rejoinder stating that there are 41 ID Clerks in the Office and the applicant is at Sl.No.14 and there are persons junior to him ~~who are~~ allowed to continue in this Office and his transfer order has been issued on account of the influence made by the husband of Smt Smitha on higher authorities.

5 We have heard the counsel on both sides. Even though there is a statement that the applicant has been transferred due to exigency of service, we are not fully satisfied about the contention of the respondents. ~~because~~ ^{neither} the transfer order has been produced before us nor was it communicated to the applicant. After receipt of Annexure-A order, the applicant has filed Annexure-B representation before the Government and the same is pending. Hence, we are not examining the merit of the case. It is for the Government to decide whether the transfer of the applicant as stated above or on account of influence on authorities has been effected in the exigency of service. Since the matter is already seized of by the concerned authority when the applicant filed Annexure-D, we are of the view that the interest of justice would be met in this case if we dispose of the application itself directing Respondent-1 to consider Annexure-D representation and pass appropriate order as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. Ordered accordingly.

6 The interim order passed on 12.02.92 and extended thereafter will continue till the respondents take a decision on the representation of the applicant dated 7.2.1992 at Annexure-D and communicate the same to him.

7 There will be no order as to costs.


(R. Rangarajan)
Administrative Member


(N. Dharmadhan)
Judicial Member
29.1.93