

Central Administrative Tribunal
Ernakulam Bench

Dated Tuesday the twentyseventh day of June,
One thousand, nine hundred and eighty nine.

Present

Hon'ble Shri N.V. Krishnan, Administrative Member

Original Application No. 248/89

P.S. Satheesh Kumar : Applicant

Vs

1. Union of India rep. by
Secretary, Central Water Commission,
Sewa Bhavan, New Delhi.
 2. The Director (C),
Central Water Commission,
Office of the Chief Engineer,
Water Resources Organisation (SR),
H.NO.10-2-8/1, Shantinagar,
Hyderabad-28.
 3. The Executive Engineer,
South Western River Divn.,
Central Water Commission,
Cochin-15.
 4. G. Ramanan,
LDC, Tapti Division,
Central Water Commission,
Surat (Gujarat).
-): Respondents

Ms. Daya K. Panicker : Counsel for applicant

Mr. P.V. Madhavan Nambiar, SCGSC : Counsel for respondents

O R D E R

Hon'ble Shri N.V. Krishnan,

This application under Section 19 of the Administrative Tribunals Act has been filed on 21.4.1989 against the order dated 10.4.89 (Annexure-C) transferring the applicant who is a Lower Division Clerk from the SWR Division of the Central Water Commission to the Tapti Division, Surat. The applicant seeks a direction quashing Annexure-C order and a direction to the respondents to dispose of the representation made by him in accordance with the transfer policy of Respondent-1.

2. When the application was heard for admission on 3.5.89, it was stated that the applicant had filed a representation dated 19.4.89 (Annexure-D) addressed to the Chairman, Central Water Commission, New Delhi, requesting him to review his case and cancel the transfer order or post him to any of the offices in the Southern Region on transfer. The counsel for the Respondents who was also present after taking notice of the application, stated that he had no information as to whether the representation had been considered and orders passed. Therefore, an interim order staying the operation of the impugned order was passed and the case was fixed for further directions.

3. I have heard the learned counsel of both sides on 22.6.1989 and also perused the records. The Respondents have filed their reply.

4. The Respondents have filed as Annexure R1 an Office Memorandum of Respondent-1 dated 27th May, 1987 relating to "Transfer Policy for Central Water Commission". The applicant has challenged his transfer on the ground that it is violative of the policies laid down in Annexure-R1. This averment is, with equal emphasis, denied by the Respondents.

5. Para-18 of the Transfer Policy states that a representation if any, against the transfer orders will be

made through the proper channel by the affected individuals within 7 days of the receipt of the posting orders.

6. In accordance with this provision, the applicant had sent a representation dated 19.4.1989 to the Chairman, Central Water Commission, New Delhi (Annexure-D). Nevertheless, this application was filed two days thereafter on 21.4.89, stating inter alia as follows:

"During the pendency of the above representation, if the transfer order will be affected the applicant would be seriously prejudiced and hence he has approached this Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985."

The principal reason for filing the application is made clear in the extract.

7. It is seen from the Respondent's reply that the representation has been sent to the competent authority for consideration/further orders and a decision thereon is awaited. An assurance is also given (which seems to be implicit in Para 18 (a) of Annexure R1) that the applicant will not be relieved from Cochin, till his representation is considered and disposed of by the Appellate Authority under the Transfer Policy.

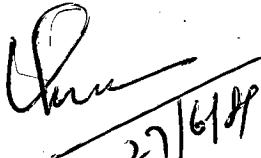
8. It is noticed that the Transfer Policy specifically permits a representation to be made against a transfer. The applicant has, therefore, filed a representation. I am of the view that it will, therefore, be premature for this Bench to pronounce any judgment on the merits of this application. What is more, the main purpose of

filing this application i.e. to secure the stay of the operation of the impugned order Annexure-C, has been achieved by the aforesaid assurance of the Respondents. The appropriate course will, therefore, be for the Respondents to consider the representation of the applicant (Annexure-D).

9. It is, however, noticed that the representation at Annexure-D does not contain ^{all the} the grounds on which the relief has been sought in this application. It will be unfair to the Respondents if the authority who will dispose of the representation is not apprised of all the important grounds on which the representation is made.

10. In these circumstances, the Respondents are directed to dispose of the representation (Annexure-D), also taking note of the application filed by the applicant. Further, they are directed not to relieve the applicant from Cochin, till this representation is considered and disposed of by the appropriate authority.

11. The application is disposed of with these directions. There will be no order as to costs.


27/6/89
(N.V. Krishnan)
Administrative Member
27.6.89