

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 268 of 1999.

Monday this the 5th day of April, 1999.

CORAM:

HON'BLE MR. B.N. BAHADUR, ADMINISTRATIVE TRIBUNAL

N. Bahuleyan,
Senior Personnel Assistant,
Heavy Alloy Penetrator Project,
Ministry of Defence,
Thiruchirappally, residing at:
Pazhanjiyil Puthen Veedu,
South Monkuzhy, Pulliekannakku P.O.,
Kayamkulam, Kerala.

.. Applicant.

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India, represented by
Secretary to Government of India,
Ministry of Defence, New Delhi.
2. The General Manager,
Heavy Alloy Penetrator Project,
Ministry of Defence,
HAPP Township P.O.,
Thiruchirappally -25.
3. The Director General (Ordnance Factory)
and Chairman,
Ordnance Factory Board,
Ministry of Defence,
No.10A, S.K. Bose Road,
Calcutta-1.
4. Shri C.R. Jain,
General Manager,
Heavy Alloy Penetrator Project,
HAPP Township P.O.,
Thiruchirappally - 25.

.. Respondents

(By Advocate Shri Govindh K Bharathan, SCGSC(for R.1-3)

The application having been heard on 5th April 1999,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. B.N. BAHADUR, ADMINISTRATIVE MEMBER

Heard the learned counsel appearing on both sides.
Learned counsel appearing for the applicant drew my attention
to the impugned order at A-10, whereby the second respondent
has refused to forward the representation of the applicant

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to the 3rd respondent. Learned counsel for the respondents states that instructions have been received from the second respondent stating that the applicant has already been relieved from 12.12.98.

2. Learned counsel for the applicant informed us during the course of the hearing that the transfer order was conveyed to the applicant while he was on leave, and that the applicant continues to be on leave till today, due to the illness of his son.

3. It is clear that in case of transfer, exigencies of public service are of the prime importance and it is the prerogative of the ~~controlling~~ ^{competent BnB} authority to transfer people, as per public interest. I would, therefore, not go into the merits of the case.

4. However, the right to submit a representation to the competent authority cannot be taken away. A plain reading of A-10 at page 15 of the O.A. shows that the 2nd respondent has rejected the representation made by the applicant at his own level, and has stated clearly that "the same cannot be forwarded to OFB as intimated earlier." In my view, this part of the decision seems to be objectionable. My attention is also drawn by the learned counsel for the applicant to A-15, which is a copy of a Telefax representation, made, by the applicant, to OFB.

5. It would be appropriate in this case, if the third respondent, who has issued the original transfer order of the applicant, considers his representation, said to have been made by the applicant dated 21.11.98 and takes a decision on merits and in accordance with the rules and conveys the same to the applicant. The learned counsel for the respondents had, ^{BnB} ~~personally~~, no objection to such a course of action. However,

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at the same time, no alteration is made either in the transfer ^{*B.N.B. order*} or in the status obtaining at present, according to which the applicant has been already relieved and continues to be on leave.

6. Accordingly, it is directed that the second respondent shall forward the representation made by the applicant within a period of one week from the date of receipt of a copy of this order. It is hoped that the 3rd respondent will dispose of the said representation as early as possible.

7. The application is disposed of as above. No costs.

Dated the 5th day of April 1999.

B.N. Bahadur

B.N. BAHADUR
ADMINISTRATIVE MEMBER

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List of Annexures referred to in the order:

1. Annexure A-10 : True copy of the letter No.11006/Admn/HAPP dated, 23.11.98 issued on behalf of the 2nd respondent.
2. Annexure A-15 : True copy of the representation dated 11.12.98 submitted by the applicant to the 3rd respondent.