

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 18-1-1990.

Present

Hon'ble Shri NV Krishnan, Administrative Member
and

Hon'ble Shri N Dharmadan, Judicial Member

DA 288/89

V Sayed Mohammed : Applicant
Vs.

1 The Administrator
Union Territory of Lakshadweep
2 Union of India rep. by Secretary
Ministry of Education & Social
Welfare, New Delhi.
3 Director of Education
Directorate of Education
Union Territory of Lakshadweep : Respondents

M/s S Venkatasubramonia Ayyar and
TP Sajan : Counsel of Applicant
Mr PV M Nambiar, Sr CGSC : Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The applicant in this case is a Primary School Teacher in the Union Territory of Lakshadweep. He was working at Amini Island for about 8 years when by the Annexure-I order dated 18.3.89, he was transferred from Amini Island to Kavaratti Island. The applicant contends that he had sent a representation on 6.4.87 (Annexure-III) seeking a transfer to his native island Agatti. He is aggrieved by his posting to Kavaratti by the impugned Annexure I order dated 18.3.89. He has, therefore, prayed to quash the Annexure-I order in so far as it transfers him to Kavaratti Island and to direct Respondent-3 to transfer him to his native island Agatti.

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2 The Respondents have filed a reply stating that apart from the fact that the transfer is made on administrative grounds, it was in consideration of an application made by MK Mariyomma (Ext.R.3) claiming that the applicant is her husband and has been away at Amini since long and therefore, she sought his transfer from Amini to Kavaratti.

3 We have heard the counsel and perused the records.

4 It would appear that the impugned transfer order is essentially the result of the request made by MK Mariyomma ~~at~~ Respondent-3 claiming to be the wife of the applicant. However, in a rejoinder filed by the applicant, it has been stated that Mariyomma is not his present wife, though she was his former wife. He had divorced her in 1987. He has married again and his parents and his present wife are living in Agatti and hence he had sought a transfer to Agatti.

5 The counsel of applicants also relied upon para-7 of the Annexure-II letter dated 25.4.70 to the effect that the locally recruited government servants should not be posted outside their native island, except when absolutely necessary. He, therefore, relies on this direction in support of his request to transfer to Agatti.

6 The learned counsel for the respondents points out that the Annexure ~~R-1~~ order relating to the local recruits being retained in their islands is not in force as of to-day in view of Annexure R-1 order.

Answer 2

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7 Having heard the counsel we are of the view that it is not necessary to decide the issue whether para-7 of the Annexure-II order is still in force or not. We are satisfied that, primarily, the transfer was made on the request of Mariyomma who had sent the Ext.R3 letter. As the applicant repudiates her and states that his parents and his present wife are at Agatti, we are of the view that, but for the Annexure R-3 letter, the applicant may not, perhaps, have been transferred to Kavaratti. In the circumstances, we are of the view that the applicant is entitled to some relief.

8 As the annual transfers are normally made in March/April, we are of the view that this case can be disposed of by a direction to Respondent-3 to consider the applicant's transfer from Kavaratti to Agatti, in case the applicant makes a fresh representation to him within 15 days from the date of receipt of this order.

9 It is ordered accordingly. The application is disposed of with this direction. There will be no order as to costs.


(18/1/90)
(N. Dharmadan)
Judicial Member
18.1.90


(18/1/90)
(NV Krishnan)
Administrative Member
18.1.90