

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

Dated Tuesday the sixth day of June, one thousand nine
hundred and eighty nine

PRESENT

Hon'ble Shri S.P. Mukerji, Vice Chairman

ORIGINAL APPLICATION No.297/89

M. Vasudevan Nair .. Applicant

Vs.

1. Chief Postmaster General,
Kerala Circle, Trivandrum.
2. Union of India, represented by
its Secretary, Ministry of
Communications, New Delhi.
3. S. Somasekharan,
Inspector of RMS, 'EK' Ist
Sub Division, Ernakulam. .. Respondents

Counsel for the applicant .. M/s OV Radhakrishnan,
K.Radhamani Amma, Raju K.
Mathews.

Counsel for the respondents
1&2 .. Mr. PV Madhavan Nambiar,
SCGSC

O R D E R

Shri S.P. Mukerji, Vice Chairman.

In this application the applicant has challenged the transfer of Respondent No.3 to Trivandrum in preference to the applicant's. The brief facts are that on 4.7.1986 the applicant was transferred from Trivandrum to Kottayam and on his representation dated 1.11.1986 he was given an assurance by the Respondents vide Exbt.A.1 that the question of his re-transfer to Trivandrum will be considered as and when a vacancy arises there. On another representation dated 9.11.1988 he was informed that there

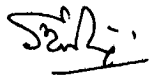
was no vacancy at Trivandrum. When the applicant learned that a vacancy of Inspector, R.M.S. in the Circle office at Trivandrum ^{was} ~~is~~ in existence he represented on 31.3.1989 pointing out the vacancy. Instead of retransferring him to Trivandrum the 3rd respondent was transferred to Trivandrum as at Annexure-4. The learned counsel for the applicant stated that when the assurance was given to the applicant that he will be considered for transfer to Trivandrum when a vacancy arises, respondent No.3 was already at that station but he was transferred to Ernakulam on 21.3.1987. According to the learned counsel retransfer of respondent No.3 ^{to Trivandrum} ~~is~~ thus is a clear violation of the assurance given by the other respondents.

2. The learned counsel for the respondents indicated that the applicant had earlier moved an application before the Tribunal in O.A. 519/86 challenging his transfer from Trivandrum to Kottayam but the Tribunal rejected the application and upheld the transfer. In that application the respondents had taken the stand that the applicant was transferred from Trivandrum to Kottayam as he was misusing his power. Though this plea was not the basis of ^{the} ~~upholding~~ ^{of} the transfer by the Tribunal, the learned

counsel for the respondents before me reiterates that because of this fact the applicant could not be found fit to be transferred back to Trivandrum in public interest. He indicated that for filling up the vacancy at Trivandrum both the applicant as well as respondent No.3 were considered but, for administrative reasons the applicant was not ^{re-}transferred to Trivandrum in preference to respondent No.3.

3. Having given careful thought to the facts of the case I do not find any justification for the Tribunal to intervene in favour of the applicant. Though it is a fact that the applicant was given an assurance in December, 1986 about his retransfer, the Exbt. at A.1 which carries the assurance simply states that "the question of retransfer will be considered as and when a vacancy arises at Trivandrum". ^{It} ~~He~~ does not give ^{any} assurance that the applicant will be transferred when a vacancy arises. As the learned counsel for the respondents indicated that the applicant was also considered alongwith respondent No.3 for retransfer to Trivandrum but for administrative reasons he was not found suitable. Thus there is no breach of any assurance given by the respondents.

4. In the circumstances I reject the application under Section 19(3) of the Administrative Tribunals Act.


(S.P. Mukerji)
Vice Chairman
6-6-1989