

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 305
T. A. No.

1992

DATE OF DECISION 5.1.93

P.K. Thomas and 4 others Applicant (s)

Mr. Pirappancode V. Sreedharan Nair Advocate for the Applicant (s)

Versus

union of India represented by its
Secretary, Ministry of Defence, Respondent (s)
New Delhi and others

Mr. T.P.M. Ibrahimkhan, ACGSC Advocate for the Respondent (s)

CORAM :

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

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1. Whether Reporters of local papers may be allowed to see the Judgement? *NO*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

Applicants are Storekeepers working in the Naval Base Cochin. They are aggrieved by Annexure-II order by which they have been transferred to various places along with others by a common order.

2. According to the applicants, their transfer is against the policy statement contained in Annexure-I dated 12.12.83. The relevant portion is extracted below:

"a) Transfers will, as far as possible, be effected on promotion from a lower rank to the higher.
b) transfers other than on promotion will be effected where warranted by exigency of service or on grounds of administrative necessity or in public interest."

According to the applicant, there is no public interest or exigency of service warranting their shifting from Cochin to various places. The transfers are illegal and violative

of the policy laid down by the department in the matter of transfers.

3. Respondents in the reply statement submitted that Annexure-I policy statement has been superseded by later decisions/in this behalf. They ~~are~~ produced as Annexures R-3(a) (b) and (c). They have submitted that the transfer could be effected in the existing grade only in the case of administrative necessity adopting the principle that individual who have longest stay in a particular station can be transferred in the exigency of service. A general transfer of 47 persons have been effected as per the impugned O.M. Since there is shortage of staff arrangement was made to divide the deficiency amongst various establishments with a view to ensure that the functioning does not get adversely affected. It is in implementation of this policy decision that the general transfer has been effected as per the impugned proceedings. They further submitted that the O.A. is liable to be dismissed.

4. Having heard counsel, I am of the view that the applicants have not made out any case for interference. The case of the applicants based on Annexure-I that generally transfers are effected only on promotion cannot be accepted in the light of subsequent clause in the same O.M. Respondents have clearly pointed out the administrative necessity for effecting the transfers of the applicant. It is also brought to my notice that the general transfer of 47 persons have been effected as per the impugned proceedings. In the matter of interference and general transfers the scope of jurisdiction of the Tribunal is very much limited. The Supreme Court has ~~held~~ in similar cases that unless there is strong reason for grounds of malafide or violation of mandatory norms interference on/transfer ~~orders~~ effected by the authorities in public interest shall not be interfered with.

5. In this view of the matter, taking into consideration the statement of the respondents in the reply, I am of the view that there is no substance in the application and it is only to be rejected. Accordingly, I do so.

6. There shall be no order as to costs.


5.1.93

(N. Dharmadan)
Judicial Member
5.1.93

kmm