

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 341/92
~~XXX~~ Dy. No. 1879/92 199

DATE OF DECISION 24.2.92

Jose Alias Applicant (s)

Mr. K. Ramakumar Advocate for the Applicant (s)

Versus

Union of India, represented by Secretary, Ministry of Communications and others Respondent (s)

Mr. Abul Hassan AA, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. Mukerji - Vice Chairman

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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

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

In this application dated 23.2.92 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as Technician in the S.P.C. Telex Exchange, Ernakulam has challenged the impugned order dated 20.2.92 relieving him from his duties and directing him to report to SDOT, Muvattupuzha for duty. The applicant's contention is that this transfer is borne out of malice and jealousy of the Assistant Engineer because of the letter of commendation which the applicant had received from the District Manager vide his letter dated 24.6.87 at Annexure A. Ever since then, according to the applicant the Assistant

Engineer i.e., Respondent No.3, has been finding fault with his work and serving him with damaging memoranda, copies of which have been annexed at Annexures B,C and D.

2. We have heard the learned counsel for the applicant as also Shri A.A.Abul Hassan, ACGSC for the respondents and gone through the documents carefully. The impugned order of transfer at Annexure-E dated 20.2.92 reads as follows:

"As per instructions contained in Assistant General Manager (Administration), GMT, Ernakulam Memo No. ST/EK-218/7 Temp/91-92/3 dated 19.2.1992, Shri Jose Alias, Technician, SPC Telex Ernakulam is relieved off his duties from this unit w.e.f. the A/N of 20.2.1992 with instructions to report to SDOT Muvattupuzha for duties at Telephone Exchange, Koothattukulam.

The transfer is ordered in the interest of service.

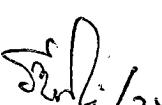
Sd/- Assistant Engineer,
SPC Telex, Ernakulam,
Kozhi-682011." (emphasis added)

From the above it is clear that the order of transfer ~~not~~ ^{not} ~~communicated~~ ^{summoned} has been ~~summoned~~ by the Assistant Engineer (Respondent No.3) who has signed the order but is based on the instructions of the Assistant General Manager (Administration) at the District Headquarters. The learned counsel for the applicant fairly conceded that the applicant has no allegation of malafide or malice against the Assistant General Manager (Administration). We cannot visualize a situation in which the Assistant Engineer, Ernakulam (Respondent No.3) would have so much influence with the District Manager or Assistant General Manager as to prevail upon him to ^{unwarrantably} issue instructions for the applicant's transfer. The mere fact that the instructions of the Assistant General Manager have been communicated by the Respondent No.3 does not mean that

Respondent No.3 has been instrumental in the issue of the impugned order. However, we agree with the learned counsel for the applicant that the Assistant Engineer in his endorsement to the Exchange gate watch-and ward has unnecessarily and avoidably directed the applicant to be "treated as an outside official". Such a direction was not at all warranted and it shows the state of mind of the Assistant Engineer. However, in view of what has been stated above, we cannot take the impugned order of transfer to be a result of malice borne by the third respondent. The transfer is an incident of service and the place where the applicant has been transferred, as indicated by the learned counsel for respondents, is admittedly within 45 minutes' journey by Bus from Ernakulam.

3. In the circumstances, we do not see any reason to intervene in the order of transfer and ^{accordingly} dismiss this application under Section 19(3) of the Administrative Tribunals Act. We make it clear that this order shall not stand in the way of the 2nd respondent disposing of the applicant's representation if any to be submitted, sympathetically and in accordance with law, within a reasonable time. There will be no order as to costs.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

24.2.92

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