

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.36/05

Thursday this the 27th day of January 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

V.J.Pillai,
S/o.R.Vasu Pillai,
Fitter General Mechanic,
(Pump House Operator),
O/o. the Garrison Engineer/Air Force/Trivandrum.
Residing at : MES Quarters No.P68/Vayuvihar (AF),
Thuruvickal Post, Trivandrum - 31. Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the Secretary to the Govt. of India,
Ministry of Defence, New Delhi.
2. The Engineer-in-Chief,
Military Engineering Service,
Army Headquarters, Kashmir House,
DHQ P.O., New Delhi.
3. The Chief Engineer, Headquarters
Southern Command,
Military Engineering Service,
Pune - 411 001.
4. The Garrison Engineer (Air Force)
Military Engineering Service,
Thuruvickal Post, Trivandrum - 31.
5. The Assistant Garrison Engineer (Air Force)
Military Engineering Service,
Thuruvickal Post, Trivandrum - 31.
6. The Chief Engineer (NAVAS)
Naval Base P.O., Kochi - 682 004. Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 27th January 2005
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant Fitter General Mechanic in Military
Engineering Service is aggrieved that by the impugned order
Annexure A-1 dated 4.1.2005 he has been transferred to Fort

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Kochi. It is alleged in the application that the applicant has only an year more left for retirement, that in terms of the transfer policy a person who has less than two years to retire on superannuation would not generally be transferred except on promotion or request, that even in the case of such transfer an opportunity for making representation is to be given, that the transfer at the tail end of the applicant's service when his daughter is doing First year in the Degree is likely to cause undue hardship to him, that the order of transfer was not served on him but a movement order was issued, that this action being arbitrary and illegal calls for intervention and the applicant has, therefore, constrained to file this application seeking to set aside Annexure A-1 order and for a direction to the respondents to allow the applicant to continue at Trivandrum as if Annexure A-1 had not been issued.

2. Respondents contend that as the applicant and one Abraham Mathew residing in nearby quarters were quarrelling each other creating an unpleasant atmosphere it was decided by the competent authority in public interest to transfer both of them to different places and plead that the Tribunal may not interfere with the order which was issued only in the interest of service. It is also stated that as the applicant refused to accept the posting order it had to be affixed at his place of residence. I was informed that on the basis of the interim order the applicant has been permitted to join back. The applicant stated that his transfer was not justified because it was Mr. Abraham who created the problem and that the applicant may be permitted to file a rejoinder. The issue being only a transfer I am not

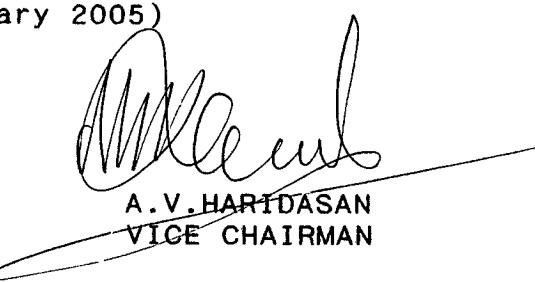
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convinced that a rejoinder is necessary for disposal of this case at this stage. Hence I heard the learned counsel on either side.

3. Learned counsel of the applicant submitted that the transfer of the applicant while he has only one year more to retire is against the guidelines, arbitrary and irrational and therefore the order has to be set aside. I find that the applicant has not made any allegation of malafides. It is also not disputed that the reason for transfer was an unhealthy atmosphere created by quarrel between applicant and Abraham Mathew. Under these circumstances the action on the part of the competent authority to post the quarrelling officers to different places cannot be faulted at all. A congenial atmosphere for the staff is essential and desirable for smooth functioning of any institution. The guidelines which are required to be followed in routine transfers in normal situation cannot be and need not be followed in a situation like the present one. I find no scope for judicial intervention in the matter and therefore no need for admission of this application.

4. In the light of what is stated above, I reject this application under Section 19(3) of the Administrative Tribunals Act, 1985. It is made clear that rejection of the application would not stand in the way of the applicant making a request to the competent authority for a posting back to Trivandrum and the competent authority considering the same with sympathy.

(Dated the 27th day of January 2005)



A.V. HARIDASAN
VICE CHAIRMAN