

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 380
T. A. No.

1991

DATE OF DECISION 4.9.1991

K. K. George Applicant (s)

Mr. M R Rajendran Nair Advocate for the Applicant (s)

Versus

The Director General of Light
Houses & Light Ships, New Delhi Respondent (s)

Mr. Mathews J. Nedumpara for R 1-2
Ms. Sheela Devi for R 3 Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? HO
3. Whether their Lordships wish to see the fair copy of the Judgement? HO
4. To be circulated to all Benches of the Tribunal? HO

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

This application is directed against Annexure-I order of transfer passed by the Director, Department of Lighthouses and Lightships, Madras transferring the applicant from Kovilthottam to Ramayapatnam.

2. The applicant is at present working as Head Lightkeeper. According to him he commenced his service in 1967 and worked in various places outside Kerala till July, 1988. He is a native of Kerala State. On the basis of his request, in 1988 he was transferred to Kovilthottam. He has not completed three years in the present place.

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He further submitted that the transfer is against the guidelines contained in Annexure-III. The applicant further stated that several other persons are allowed to continue at the same station for more than three years. M/s. A. L. Mathew and Rajendran are continuing at Vilingjam and Kanyakumari for more than the aforesaid period. According to the applicant the third respondent has never been posted outside Travancore area during the entire period of his service. The applicant also submitted that his transfer to a distant place outside Kerala is really a punishment. Hence, it is liable to be quashed.

3. The respondents 1 & 2 and the third respondents have filed separate counter affidavit. The fact that the applicant worked outside Kerala from 1967 to 1988 has not been denied in the counter affidavit. But the respondents 1 & 2 justified the transfer on the basis of following statements in the counter affidavit:

"It is respectfully submitted that the service record of the applicant is far from satisfactory. There were innumerable complaints of malpractice, insubordination and act of dishonesty on the part of the applicant. The applicant has been in the habit of manipulating the muster rolls used for making the attendance of substitutes engaged on daily wages basis in the absence of regular Group 'D' staff, consequent to their proceeding on leave. Vide his letter No. KLT/1/90-Estt dated 28.6.90, he has admitted his said manipulation. A true copy of the said letter is produced herewith and is marked for necessary reference as Annexure R-2A.

The Kovilthottam Lighthouse is near the applicant's home. Accordingly, he used to absent himself without prior permission from his superior authorities or without taking proper leave, to attend to his personal needs. This respondent has received several complaints

from different quarters regarding his regular unauthorised absenteeism. It was under these circumstances, letter No. MDS:36-E(12)/88 dated 20.2.1991 (Ref. Annexure R-2B) was issued to him. The applicant has been in the habit of making unjust allegations against his colleagues and superior officers. He has repeatedly been warned against the same and advised to desist from repeating the same."

4. The applicant has filed a rejoinder denying all these statements and submitted that the statement in the reply of the Respondents 1 & 2 that the applicant's services are required immediately for smooth functioning of Ramayapatnam Lighthouse is not a correct statement after verifying the facts.

5. I have heard arguments of learned counsel for both sides. I am of the view that the present transfer cannot be considered as a transfer effected in the best interest of the Department as contended by Respondents 1 & 2 in the counter affidavit. Some serious allegations are raised against the applicant which are denied by the applicant. Under these circumstances, the proper and fair course which Respondents 1 & 2 should have adopted is to initiate departmental actions against the applicant for finding out the truth and transfer the applicant in case such a transfer is necessitated for conducting an enquiry. Without following the proper procedure effecting a simple transfer and justifying it on the basis of allegations is not a proper course to be effected in the interest of the Department.

6. The question of violation of the guidelines contained in Annexure-III and the retention of the third respondent

and other persons for more than the period mentioned in the guidelines/are matters to be examined further by the competent authority namely the first respondent. The applicant also submitted Annexure II representation before the first respondent on 14.2.1991 requesting to cancel the transfer and post him at Kovilthottam or a nearby station. This is a legitimate request. It requires serious consideration by the first respondent on the basis of the averments made by him.

7. Having regard to the facts and circumstances of the case I am of the view that interest of justice will be met in this case if I direct the first respondent to consider the claim of the applicant as stated in this application and Annexure-II representation. Accordingly I direct the first respondent to consider Annexure-II in the light of the above observations and pass appropriate orders within a period of three months. In the meantime the first respondent should consider the posting of the applicant in any other vacant post of Headlight keeper in Kerala ^{nearer to} Kovilthottam, if he cannot be accommodated in Kovilthottam for any reasons ^{stated in his reply}. Till a decision is taken by the first respondent as directed above on Annexure-II the impugned order Annexure-I ~~may be~~ kept in abeyance with the freedom to post him to a post in Kerala as indicated above.

8. The application is disposed of as above. There will be no order as to costs.


(N. Dharmadhan)
Judicial Member

4.9.91