

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION

10-01-1990

PRESENT

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

ORIGINAL APPLICATION NO.395/89

G. Narayanan .. Applicant

Vs..

1. Union of India, represented by Secretary to Government, Ministry of Food & Civil Supplies, Department of Food, New Delhi.

2. Food & Nutrition Extension Officer, Food and Nutrition Extension Centre, Cochin.16.

3. Cherian Jacob, Demonstration Officer.

4. Bhagavathy Amma. B. Demonstration Officer.

5. S.T. Ramanujam, Demonstration Officer. .. Respondents

Counsel for the applicant .. Ms. M.R.Rajendran Nair & PV Asha

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

2. M/s Sebastian Paul & Sabul J. Paul (for R.3)

3. M/s P.Gopalakrishnan Nair & D.Sreekumar (for R.4).

O R D E R
(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 29.6.89, the applicant has prayed that the order dated 21st June, 1989 transferring him from Ernakulam to Pune should be set aside as he is not liable to be transferred in accordance with the transfer policy at Annexure-III.

2. The respondents have indicated that the transfer of the applicant is a sequel to the order of

this Tribunal dated 4th April, 1989 in O.A.K.469/88 in which it was directed that the transfer of respondent No.3 who was the applicant in that case to Bombay should be set aside and he should be posted back at Ernakulam. It was observed in that judgment that since respondent No.3 was not the ^{before us} _{junior} most official he should not have been transferred. The applicant before us who was not a party in that case was transferred in place of respondent No.3 on the basis of the fact that he was junior to respondent No.3. While dismissing the Review Application in my order in O.A.K.469/88 on 20th October, 1989 it was clarified that the reference to junior most Demonstration Officer in the earlier judgment was in the context of entire Southern Region and not to Ernakulam alone.

3. I have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. The learned counsel for the ^{1 and 2} respondents indicated that by the retention of respondent No.3 at Ernakulam and also of the applicant before us by the interim order ^{at} Ernakulam, the respondents ¹⁺² _{are} are facing difficulty in maintaining two officers against one post of Demonstration Officer. It may be recalled that the transfer of respondent No.3 which was set aside

by me was because of the fact that one of posts of Demonstration Officer in the Southern Region had been abolished and the surplus Demonstration Officer had to be given a berth somewhere outside the region. That berth was found at Bombay. It was indicated by me that if a berth had to be found for someone from Southern Region it would be the juniormost Demonstration Officer of the Southern region who has to be moved. This is based on the principle of 'last come first go' where there is abolition of post.

4. The learned counsel for the applicant before us Shri M.R.Rajendran Nair indicated that the difficulty pointed out by the learned counsel for respondents 1&2 of maintaining two officers against one post does not subsist in view of the fact that there is a vacancy of Demonstration Officer which has arisen in the Southern Region. In Madras one vacancy arose on 29.12.89 with the voluntary retirement of Smt. Sudha Bharathan. Still another vacancy is likely to arise at Madurai immediately on consequent/^{on} the promotion of Shri Jayaraman. He also indicated that there is a possibility of accommodating the applicant before us in a post of Demonstration Officer at Trivandrum ~~as one of the Demonstration Officers~~ where ~~the~~ respondent No.4 is holding the charge of two sections. If the applicant before us can be accommodated

in any one of the aforesaid three posts without disturbing anyone the respondents 1&2 are directed to consider accommodating the applicant accordingly.

5. Be that as it may, if there is no vacancy of Demonstration Officer in the Southern Region and one Demonstration Officer in the Southern Region is surplus, the juniormost Demonstration Officer in the Southern Region has to be shifted instead of disturbing those senior to him. Considering also that the applicant is a member of the Scheduled Caste and the policy of the Government of India is to post the Scheduled Caste officers as near their native place as possible, the applicant before us deserves to be accommodated in any of the available posts of Demonstration Officers in the Southern Region.

6. In the facts and circumstances I close this application with the direction that if there is a vacancy of Demonstration Officer in the Southern Region the applicant should be accommodated in one of them in accordance with the norms at Annexure-III and also keeping in view the fact that he is a member of ^{the} Scheduled Caste. If there is no vacancy in the Southern Region the juniormost Demonstration Officer in the Southern Region will have to move. There will be no order as to costs.

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(S.P. MUKERJI)
VICE CHAIRMAN
10.1.1990