

(AS)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

CIRCUIT BENCH
LUCKNOW

O.A. No. 361 of 1990(L)

G.K. Nagchandi

Applicant.

versus

Union of India & others

Respondents,

Hon. Mr. Justice K. Nath, Vice Chairman.
Hon. Mr. M.M. Singh, Adm. Member.

(Hon. Mr. M.M. Singh, A.M.)

Before he filed the present application to challenge the order of his transfer from Lucknow to Madras, the applicant had filed O.A. No. 290 of 1990 on the same subject on 29.8.90. The O.A. No. 290 of 90 was disposed of on 31.8.1990 at the admission stage with direction to Director, Song and Drama Division, Ministry of Information and Broadcasting, New Delhi (Respondent No. 2 of O.A. No. 290 as also of the present application) ^{to} "We dispose of the representation dated 27.8.1990 made by the applicant taking into account all the facts and, if possible, after giving an opportunity of personal hearing to the applicant and that the transfer in question will not be implemented till a decision is taken on the same representation". This representation dated 27.8.90 addressed to Dr. P.K. Nandi, Director, Song and Dances Division, Ministry of Information and Broadcasting, Govt. of India, New Delhi, (Annexure A-10 of O.A. 290/90)

M H L

(A)

contained only two points which are extracted below:

"(1) Since my joining at Lucknow on 26.12.1988 I have been requesting for transfer to Bhopal under the provisions of Department of Personnel Min. of Home Affairs office memorandum No. 28034/7/86-Estt.(A) dated 3.4.86 which lays down the policy of the Govt. regarding posting of Husband & Wife at the same station.

(2) I joined the Division on 18.6.69. Since then for most of the period I remained away from my family due to posting at Patna, Siliguri, Delhi, Pune and Guwahati etc. When the transfers & postings of the Administrative Officers were recently done, my case was not considered. However, as the posting at Lucknow being the nearest station to Bhopal was reasonably convenient to me. I somehow adjusted at that time. But the order in question transferring me from Lucknow to Madras has totally shaken my confidence. Madras is not only far away from Bhopal but I will also have to face language and food problem, affecting my working efficiency. I will humbly submit that this unwarrantable transfer order may please be cancelled."

2. One of the several allegations made in the present application which also figures in the grounds for relief is as follows:

"Because the Respondent No. 2 has not yet decided the representation of the applicant and asked the Respondent No. 4 to relieve the applicant in utter disregard of the judgment and order dated 31.8.90 passed by this Hon'ble Tribunal in O.A. No. 290 of 1990"

3 However, in his representation dated 10.9.90 (Annexure A 5) the applicant had, inter alia, mentioned that by an order dated 10.9.90 he was also intimated that his application had been considered but it had not been found possible to accede to his request. The Bench of the Tribunal had, on 15.11.90, directed the applicant to produce copy of order dated 10.9.90. The learned advocate for the applicant, Shri R.C.Singh, produced the original order at the pre admission hearing. This order signed by Shri B.P. Sinha, Regional Deputy Director is reproduced below:

K R L

(187)

"Reference his application dated 28.8.90 which was forwarded by this office to Director Song & Drama Division New Delhi it is informed to Sh. G.K.Nagchandi, Admn. Officer that his application has been considered by the Director S&DO New Delhi and it has not been found possible to exceed to his request.

He is directed to report to Dy. Director, S&DO Madras with immediate effect as he stands relieved from this office with immediate effect."

M

The above, thus purports to convey⁶ the applicant that his application dated 28.8.90^u (the application is dated 27.8.90. Date^u 28.8.90 is of the Regional Deputy Director's letter under which it was forwarded to the Director) was considered by the Director but not acceded to and that he stands relieved with immediate effect.

2. We do not consider it necessary at this juncture to express any views on how various allegations the applicant has made appear on a first view. However, we feel the application merits further consideration^u being the issue of fairness^M of the respondents' order to transfer the applicant to Madras, much more distant from Bhopal than Lucknow is, when the request of the applicant in applications to the authorities all along has been to post him at Bhopal where his wife is employed in a department of the State Government of Madhya Pradesh and the Central Government's policy in cases where one spouse is employed under the Central Government and the other spouse is employed under the State Government as contained in O.M. NO. 28034/7/86 Estt(A) dated 3.4.86 is that the competent authority, on an application from the spouse employed in the Central Government, may post the same officer to the station where the other spouse is employed under the State Government and if there is no post in that station in the state where the other

M. K. L.

spouse is posted. It is further stated in these instructions that each case has to be dealt with keeping in mind the spirit in which the guidelines have been laid down and the "larger objective of ensuring that a husband and wife are, as far as possible and within the constraints of administrative convenience, posted at the same station".

3. We are also of the opinion that the balance of convenience in this case requires ad-interim relief against the operation of the impugned order of transfer dated 22.8.90 and the relieving order dated 4.10.1990.

4. The application is admitted with ad-interim relief against the operation of the impugned orders dated 22.8.1990 and 4.10.1990, and the applicant shall be treated as if he has not been relieved.

5. The respondents, represented by Shri V.K. Chaudha, who produced the record, are at liberty to file objections if any, within a period of fifteen days against the order of ad-interim relief. They are also at liberty to file their counter within four weeks with copy to the applicant advocate. The applicant shall have two weeks' time to file rejoinder thereafter. Hearing to be expedited.

M N L
Member (A)

[Signature]
Vice Chairman

Dated the 23rd November, 1990.

*Recd copy of
Order
30/11/90*

*Received copy
for the applicant
EC Singh
23/11/90*