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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. Nos . 330/87, 331/87 & 332/87
T.A. No. 198

DATE OF DECISION 24.6.1991

Bhaskar Hodavadekar & 2 Ors. Petitioner

Advocate for the Petitioner(s)

Versus

Flag Officer, Commanding-in-Chief Respondent
Western Naval Command, Bombay.

Mr. V.S.Masurkar Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C.Srivastava, Vice-Chairman.

● The Hon'ble Mr.

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


(U.C.Srivastava)
V/C

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

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Original Application Nos. 330/87, 331/87 & 332/87

1. Bhaskar Hodavadekar

2. Janardan Mandavkar

3. Nazir Ahmed Shaikh

C/o. Mr. M.V. Palkar, Advocate,
17, Dalvi Building,
Dr. Ambedkar Road, Parel,
Bombay 400 012.

... Applicants

V/s

1. Flag Officer, Commanding-in-Chief,
Western Naval Command,
Shahid Bhagat Singh Road,
Bombay 400 001.

2. Capt-in-Command,
Personnel & Administrative Officer,
Western Naval Command,
Shahid Bhagat Singh Road,
Bombay 400 001.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C. Srivastava

Appearances:

None present for the
applicants.

Mr. V.S. Masurkar, Counsel
for the respondents.

ORAL JUDGEMENT:

Dated : 24.6.1991

(Per. U.C. Srivastava, Vice-Chairman)

These three cases which have been filed by the employees of Western Naval Command, Bombay, having office at the Headquarters of the Western Naval Command, have prayed that the order dated 31.3.1987 bearing No. CS/I/4200 passed by the Respondent No.1, viz. Flag Officer, Commanding-in-Chief, Western Naval Command, Bombay, be quashed and set aside to the extent it concerns the applicants. Vide the said order the applicants have been

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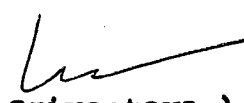
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transferred in the places mentioned against their names. The applicants grievance is that the transfer order is illegal and according to the applicants the transfer of shop clerks along with some other clerks from their present place of work in the General Manager's department at the Naval Dockyard to some other department outside the Dockyard is illegal. The result of this transfer order is that the applicants will be denied the productivity linked bonus and over time at double rate including dearness allowance which otherwise are presently getting being employees working in an industrial workshop. They are getting these benefits from the date of their appointment and these benefits are part of their service conditions and they will be denied of these benefits if they are transferred to any post outside the industrial workshop. The applicants have relied such an order passed by the Bombay High Court but these orders are by way of only interim orders. This matter came up for consideration before a Single Member Bench (M.Y.Priolkar) of this Tribunal where similarly placed other employees challenged similar order dated 21.6.1989 in which factual and legal position was considered. The amalgamation of that cadre with the general cadre vide Presidential order dated 10th November 1961 which was unconditional one — was also considered in the said judgement. The orders passed by the Bombay High Court which was by way of interim orders stayed certain transfer were also considered. After taking into consideration the Presidential order dated 10.11.1961 which was unconditional one it was held

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that the transfer order was valid. It was further held that the productivity linked bonus and overtime allowance even after affected by the transfer cannot be said to be as service conditions have been altered as there is no change in the basic pay admissible to the employees. It was noticed that the actual experience of last five years or so only marginal difference between the bonus paid to the shop employees and ex-gratia payment paid to others those who are not getting bonus and as such it was held that it cannot be considered to be a service condition which will be adversely affected after transfer of an employee from industrial workshop to other establishment. The competence of the Flag Officer, Commanding-in-Chief, to issue such an order was also considered and it was held that the local officer was competent to pass such an order. The plea that these transfers are neither on promotion posts nor their juniors have been transferred first as such the transfer was arbitrary and inequitable was also withheld. It was also held that marginal loss in emoluments by way of likely reduction of overtime allowance and bonus for a few individuals, it was difficult to hold that the transfer guidelines are unequitable particularly when these guidelines have been evolved after consultation with JCM in which all recognised unions of employees are represented. After taking into consideration the judgement in A.K.Pingle & 3 Ors. v. Flag Officer, Commanding-in-Chief (OA 507/89 decided on 7.9.1989) I do not find any ground to differ from that judgement and accordingly these applications stand dismissed. There will be no order as to costs.


(U.C. Srivastava)
Vice-Chairman