

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A. 633/87

Suryabhan Ramaji Patil,
R/o. Indora Mata Tekadi,
P.O. Bezonbagh,
Nagpur.

... Applicant

vs.

1. The Union of India,
Through Secretary,
Govt. of India,
Ministry of Defence,
New Delhi - 11.
2. The Chief Engineer,
Head Quarters,
Southern Command,
Poona.
3. Commander Works Engineer,
M.E.S.
AFI Building,
Nehru Marg,
Nagpur.



Through its Administrative
Officer.

... Respondents

Coram: Hon'ble Vice-Chairman B.C.Gadgil

Appearances:

1. Applicant in
person.
2. Mr.R.K.Shetty
Advocate for the
Respondents.

JUDGMENT

Date: 8-12-1987

The applicant is an employee with Military Engineering Service. After he joined the organisation as Lower Division Clerk he was subsequently promoted as Upper Division Clerk. Under the service rules an employee is required to render service at a tenure station. The applicant was, therefore, transferred as UDC to Pulgaon on 11-5-80. As Pulgaon is one of such tenure station it was expected that the applicant should continue at

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Pulgaon for Three years. However, on his representation he was transferred to Nagpur in November, 1981. As the applicant's wife became mentally sick on compassionate ground the transfer to Nagpur was made. In January, 1987 the applicant was transferred to Vishakapatnam. Movement orders were issued asking him to ^{jin} at Vishakapatnam on 9th May, 1987. However, the applicant reported sick from 8th May to 19th August and hence the transfer could not be effected. In the meantime the applicant was promoted as Office Superintendent on 16-7-1987 and was transferred to Vishakapatnam. The applicant has made representations that he should not be transferred out of Nagpur. Those representations were rejected and ultimately on 14-9-1987 movement orders were issued. It is this order of transfer to Vishakapatnam that is being challenged before me.

2. The applicant's contention is that Vishakapatnam is not now a tenure station and hence he should not have been transferred to that place. His another contention is that he is the Secretary of the Rashtriya MES Employees Association and that another employees Union from Bombay ~~which~~ started working at Nagpur and that on account of this union rivalry the administration took a decision to transfer him to Vishakapatnam. The applicant has also contended that his wife is mentally sick and he has three school going children. On this ground he prayed that his transfer to Vishakapatnam may be cancelled and instead he may be transferred either to Amla or Chandrapur.

3. The respondents resisted the claim by filing the reply. It was contended that transfer to Vishakapatnam was effected after the applicant was

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promoted to the higher post as Office Superintendent. It was denied that the Union or rivalry has any concern with the transfer. It was further urged that the applicant's representation to transfer him to Amla or Chandrapur has been considered and that it was not possible for the administration to accept the said representation. These and other contentions are raised by the respondents for resisting the application.

4. I heard the applicant in person and Mr.R.K.Shetty on behalf of the respondents. The applicant submitted that by an order dtd. 8th June, 1987 the Govt. has revised the list of tenure station and that Visakhapatnam has been detenured. Mr.Shetty, however, showed me the order which clearly shows that Visakhapatnam is detenured from 30th June, 1989. It would not, therefore, be possible for the applicant to contend that there is no necessity to transfer the applicant to Visakhapatnam to complete his posting at tenure station.

5. It is true that there is a rivalry between the two unions and the applicant is the Secretary of one of them. However, there is nothing on record to indicate that the administration has taken an attitude of vengeance against one of the unions by transferring the applicant to Visakhapatnam. In fact the applicant himself has prayed in this application that he may be transferred to Amla or Chandrapur. Both these places are at considerable distance from Nagpur. Hence there is no challenge to the transfer out of Nagpur. The only contention of the applicant is that he may be transferred to a particular station.

6. It appears that the applicant's wife is mentally ill and is taking treatment at the Mental Hospital as a out door patient. This aspect,however, cannot be pressed by the applicant for the purpose of contending that there is some ulterior motive to transfer him to Visakhapatnam. The fact is that the applicant,in the midst of his posting at tenure station at Pulgaon,was transferred to Nagpur to accommodate him is a circumstance negativing the contention of the applicant of animosity of the administration. Secondly,as I stated earlier, the applicant wants that he should be transferred to Amla or Chandrapur. He ~~has~~ not prayed that his transfer should be cancelled. This ~~decision~~ ~~the~~ indication that the family illness of the applicant is not likely to be seriously ~~affected~~ if he is transferred out of Nagpur. Of course such family difficulties are incidental to a transfer from one place to another and I am afraid that the applicant would not be able to invoke the jurisdiction of the Tribunal by contending that transfer to a particular place would be more convenient. Ordinarily this will be a matter to be decided by the Administration.

7. The applicant then contended that after the order dtd.16-7-87 some union members have organised a Hunger Strike on 22-7-1987 and that at that time a promise was given that he would not be transferred to Visakhapatnam and in ~~its~~ place he would be transferred either to Amla or Chandrapur. The respondents have denied that any such promise was made. They submitted that the Chief Engineer ~~who~~ was present at Nagpur on

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22-7-1987 informed the union leaders that the applicant's request will be considered and an appropriate decision would be taken. Thereafter on 5-9-1987 the said representation was rejected and movement orders were issued on 14-9-1987.

It may not be possible for the applicant to contend that such transfer smacks any malafides. As stated earlier the Tribunal would be slow to interfere with transfer orders. This is more so when in this particular case the applicant has no objection for his transfer out of Nagpur. All that he wants is that he should be transferred to a place of his own choice and not to a place which the administration decides.

8. Before closing I must observe that Annexure IV of the application shows that an individual serving in a tenure station can have an option for return to a station of his choice. I am sure that after the completion of the tenure period at Visakhapatnam the respondents will consider the request, if made by the applicant, for his posting to a station of his choice.

9. The result, therefore, is that the application fails and is dismissed. There would, however, no order as to costs. Interim orders issued in this proceedings stands vacated.

B.C.Gadgil

(B.C.GADGIL)
Vice-Chairman