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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXXXXXXXXXX

NEW BOMBAY BENCH

O.A. No. 808/87  
~~TxAxxNo.~~

198

DATE OF DECISION 21.1.1988

Mr. Anil Anand Ambavkar Petitioner

Mr. V. D. Surve Advocate for the Petitioner(s)

Versus

Union of India and another Respondents

Mr. S. R. Atre (for Mr. P. M. Pradhan) Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. Srinivasan, Member (A)

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? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

*P. S. Surve*

(4)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA.NO. 808/87

Shri Anil Anand Ambavkar,  
110/3/53, Kannamwar Nagar No. 2  
Gr.Floor, Vikhroli (East),  
Bombay 400 083.

APPLICANT

V/S.

Union of India  
through  
The Director,  
Weavers' Service Centre,  
15-A, Mama Parmanand Marg,  
Bombay 400 004.

2. The Development Commissioner  
for Handlooms,  
Udyog Bhawan, New Delhi-11.

RESPONDENTS

CORAM : Hon'ble Member (A) Shri P.Srinivasan

APPEARANCE :

Shri V.D.Surve  
Advocate  
for the Applicant

Shri S.R.Atre  
for Shri P.M.Pradhan,  
Advocate  
for the Respondents.

ORAL JUDGMENT

Dated : 21.1.1988

(PER: Shri P.Srinivasan, Hon'ble Member (A))

The applicant who has appointed in the Weavers' Service Centre, Bombay as a Peon in 1976 and obtained promotions to be appointed as Upper Division Clerk (UDC) on ad hoc basis w.e.f. 21.3.1980 was transferred to the Weavers Service Centre, Varanasi by order dated 29th October, 1987 and he has challenged this order in this application.

*P. S. Srinivasan*

2. Shri V.D.Surve, the learned counsel for the applicant energetically contends that the transfer of the applicant was illegal and unfair. Under the re-organisation of the offices of the Weavers' Service Centre all over the country, one post of UDC was transferred from Bombay to Varanasi. The order transferring the applicant was passed by the Director, WSC, Bombay who was not competent to do so. It was only the Director (Co-ordination) Bombay who could transfer the applicant and moreover the applicant was acting as UDC only on an ad hoc basis. When a post was transferred from Bombay to Varanasi an ad hoc appointee should not have been transferred. The applicant was prepared to be reverted to his substantive post of LDC in order to remain in Bombay. He is due to get married to a lady who is working in Bombay and the transfer would mean separation. Therefore on humanitarian grounds also he should have been retained in Bombay.

3. Shri S.R.Atre, the learned counsel for the Respondents stoutly resisted the contentions of Shri Surve and submitted that the order transferring the applicant was perfectly valid. There was no vacancy of UDC at Bombay in which he could be accommodated. There was no vacancy of LDC in which he could be reverted because all posts of LDC had been filled up on regular basis. In spite of all possible efforts the administration was unable to accommodate him. The administration has nothing against him but since there was no vacancy to accommodate him, they had perforce to transfer him out of Bombay.

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(6)

4. I have considered the rival contention carefully. It must be remembered that transfer is an incident of Government service and normally this Tribunal would be slow in interfering in such matters unless mala fides or animus is shown. Shri Surve, very fairly in my opinion, did not attribute mala fides or animus against the respondents for transferring the applicant. His submission was that in the circumstances of the case, the applicant should have been retained in Bombay. So far as the competence of the authority transferring the applicant is concerned, I find that an order was passed on 16.10.1987 by the Office of the Development Commissioner <sup>for Handlooms</sup> at Delhi in which one post of UDC was transferred from the Office of the Director WSC Bombay to WSC Varanasi. The order further narrated that the Zonal Director Western Zone, WSC Bombay would issue relieving orders in respect of the two UDCs (whose posts had been transferred) one to be posted in the office of the Director (Coordination) and the other to be posted in Varanasi. It was in pursuance of this order that the Director WSC relieved the applicant by the impugned order dated 29.10.1987 to join at Varanasi. He was therefore not acting on his own but in obedience to the order of the Development Commissioner of Handlooms, New Delhi. I do not find any legal infirmity in the said order. As already stated, the respondents have urged that there is no vacancy of an UDC in Bombay where the applicant could be accommodated nor is there a post of LDC to which the applicant can be reverted. Transfer of a post from one place to another is the privilege of administration and this Tribunal will not interfere in this matter. Therefore, it is not possible to accept to the applicant's

P. S. Surve

contention that he should be continued in Bombay at present. However, considering the facts of the case, I would direct the respondents to give the applicant a posting in Bombay at the earliest possible time when a vacancy of UDC or LDC arises in Bombay, particularly in view of (i) the option invited from officials by circular letter dated 2.12.1987, Ex. 'K', about the choice of Zone in which they would like to be posted (ii) the fact that the applicant's would-be wife will be working in Bombay in a post which is not transferable out of Bombay (iii) the applicant, being an ad hoc UDC has a right to ask for reversion to his substantive post and (iv) he was posted back to Bombay after a short stint at Indore only in May, 1986 and the impugned transfer has happened within a year or so thereafter.

5. In the result, the application is dismissed subject to the directions given above.

6. Parties to bear their own costs.



(P.SRINIVASAN)

Member (A)