

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW ~~XXXXXX~~ BOMBAY~~XXXXXX~~

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T.A. No. 409/87

DATE OF DECISION 14-10-1987Dr. Om Singh Verma PetitionerMr. S. Natarajan Advocate for the Petitioner(s)

Versus

Union of India & Ors. RespondentMr. P. M. Pradhan Advocate for the Respondent(s)

CORAM :

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

~~The Hon'ble Mr. X~~

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?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.409/87.

Dr.Om Singh Verma,
C.G.S.Colony, Sector II,
Block No.47,
Flat No.507, Antop Hill,
Bombay - 400 037.

... Applicant

V/s.

1. The Union of India through the Secretary to the Union Ministry of Agriculture, Krishi Bhavan, New Delhi.
2. The Indian Council of Agricultural Research, at Krishi Bhavan, New Delhi.
3. The Director General, Indian Council of Agricultural Research at Krishi Bhavan, New Delhi.
4. Dr.P.V.Dehadrai, Dy. Director-General (Fisheries), Indian Council of Agricultural Research at Krishi Bhavan, New Delhi.
5. The Director of National Dairy Research Institute, Karnal, Haryana State.
6. Shree Krishna, Officiating Director of Central Institute of Fisheries Education, Indian Council of Agricultural Research, Versova, Bombay - 400 061.

... Respondents.

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

1. Mr.S.Natarajan
Advocate for the
Applicant.
2. Mr.P.M.Pradhan for
Respondents.

ORAL

JUDGMENT:

¶Per Shri P.Srinivasan, Member(A)¶ Dated: 14.10.1987.

This is a transferred application which originated as Writ Petition No.2235 of 1987 before the High Court of Judicature at Bombay.

2. The applicant who is working as Scientist S-2 in the Central Institute of Fisheries Education (CIFE) Bombay was transferred in the same capacity to the Indian Veterinary Research Institute (IVRI) Izatnagar by order dtd. 25.6.1987 issued by the Deputy Director(P), Indian Council of Agricultural Research (ICAR), New Delhi. The applicant is aggrieved with this order of transfer which appears at Ex.'A' at page 54 of the application.

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3. Shri S.Natarajan, the learned counsel for the applicant strenuously contended that the transfer of the applicant was not justified. Under the Manual of Administrative instructions issued by ICAR, in Chapter 16 at para 5.1.1, it had been laid down that inter-institutional transfers of scientific personnel were not normally admissible. Again the normal tenure of a person in a particular institute or place is five years. To avoid transfer of a Scientist at the whim of his immediate superior, it had also been provided that such transfers would be processed through a Transfer Committee of ICAR. The applicant had been posted to CIFE only in April, 1986. He was earlier working in the National Dairy Research Institute at Karnal. He was transferred from Karnal to Bombay in 1986 on a compassionate ground to enable him to seek treatment of his son who was suffering from blood cancer. Transferring him out of Bombay within one year was against the normal practice and was therefore mala fide and illegal. Shri Natarajan also contended that the present Director of CIFE, out of professional jealousy, wanted the applicant out of his way and it was at his instance that the applicant had been transferred by ICAR.

4. Shri P.M.Pradhan, learned counsel for the respondents, sought to refute the contentions of Shri Natarajan. No doubt there were guidelines under which inter-institutional transfers are not to be normally made and also about the length of stay in a particular place or institution, but these were not mandatory in all situations. If, for administrative reasons, a person has to be transferred, these guidelines cannot be invoked to prevent such a transfer. In fact, even in the Manual of Administrative instructions relied

P. Pradhan

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upon by Shri Natarajan, in the same chapter i.e. Chapter 16, the first paragraph states that a scientist shall be liable to transfer to any place in India. This provision cannot be totally whittled down by the subsequent provision which says that inter institutional transfers should not be normally made. Shri Pradhan pointed out that the question of the applicant's transfer had been considered in April, 1987 by the Transfer Committee of ICAR because he was unable to get on in the institute in which he was working. It was decided at that time that in the interests of the Institute he should be transferred. An order of transfer was actually drafted in April, 1987 but because the applicant had to undergo surgery at the time, the transfer was not immediately implemented. After the applicant recovered from surgery, the impugned order of transfer was issued after the matter was once again considered in depth by the Committee. Shri Pradhan showed me the note on the file of ICAR dtd. 19.6.1987 which had been approved by all the members of the Transfer Committee presided over by the Director General. In this note, the incompatibility of the applicant with the Director of CIFE and his failure to get on harmoniously with others in the institution was brought out and the members of the Committee felt that it was "advisable that considering the organisational health of CIFE Dr.Verma's transfer as per the earlier decision of the Council may be effected". Therefore Shri Pradhan contended that the transfer was for overriding administrative considerations and this Tribunal should not interfere with it.

5. I have carefully considered the rival contentions. Having perused the detailed note dt. 19.6.1987, I am satisfied that the applicant's transfer was indeed

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made for overriding administrative considerations. The incompatibility between the applicant and the other officials of CIFE including the Director, led the Transfer Committee, which is the competent body to approve of transfers of Scientific personnel, to the conclusion that it was in the best interests of the institution that the applicant be transferred out of it. I can find no legal infirmity in this decision of the Transfer Committee. It is not for me to reappriase the facts to come to a different conclusion. Therefore in the absence of any legal infirmity I find myself unable to interfere with the impugned order. In my opinion it was also in the best interest of the applicant himself that he should be given an opportunity to work elsewhere.

6. Having said so much, certain other things need to be noticed. Shri Natarajan pointed out that normally transfers are effected at the end of the academic year in April. Shri Natarajan also pointed out that for the treatment of the applicant's son who is suffering from blood cancer it is necessary for the applicant to remain in Bombay for some more time. Shri Pradhan produced for my scrutiny a certificate issued by the Tata Memorial Hospital at Bombay stating that the chances of cure of the applicant's son are very high, the disease being under control; he needed regular follow up every three months. The applicant's wife is a Doctor in CGHS in Bombay. Taking all these facts into account I feel that it would be in the interests of justice if the implementation of the applicant's transfer is postponed till 30th April, 1988 so that the health of the applicant's son can improve in the meanwhile. I, therefore, direct the

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respondents not to implement the transfer till 30-4-1988.

7. Shri Natarajan raised a point as to whether the applicant could even now approach the departmental authorities with a request to cancel his transfer. I may clarify that this order does not prohibit him from ~~doing~~ so.

8. I, therefore, reject the applicant's challenge to the impugned order of transfer but direct the respondents to postpone its implementation till 30th April, 1988. The application is partly allowed. Parties to bear their own costs.



(P. SRINIVASAN)
Member(A)