

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.  
T.A. No. 164

1987

DATE OF DECISION 24-9-1987

Manohar G. Giradkar

Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Mr. Bhavsar (For Mr. D. S. Chopra) Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M. B. Mujumdar, Member (J)

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

Tr. Application No.164/87

Manohar G. Giradkar,  
Catering Manager,  
Nagpur Unit, Central Railway,  
Nagpur.

.. Applicant

Vs.

1. Sr. Divisional Personnel Officer,  
Central Railway,  
Nagpur.

2. Divisional Railway Manager,  
Central Railway,  
Nagpur.

3. General Manager,  
Central Railway,  
Bombay V.T.

4. Union of India,  
through  
Ministry of Railway,  
Central Secretariat,  
New Delhi. .. Respondents.

Coram:Hon'ble Member(J) Shri M.B.Mujumdar

Appearances:

1. Applicant in  
person.

2. Mr. Bhavsar  
(for Mr.D.S. Chopra)  
for the Respondents.

ORAL JUDGMENT

Date:24-9-87

(Per M.B.Mujumdar, Member(J))

The applicant had filed Writ Petition No.1073/83 in the High Court of Judicature at Bombay, Nagpur Bench, challenging his transfer from Nagpur to Bombay. That Writ Petition is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

..2/-

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2. The applicant was initially appointed as Asstt. Catering Manager of the Railway Canteen at Wardha. In 1969 or 70 he was transferred to Nagpur as Asstt. Catering Manager. From there he was transferred on promotion to Amla as Catering Manager. In 1979 he was transferred in the same capacity to the Railway Canteen at Nagpur. By an order dtd. 16-2-1983 he was transferred in the same grade and capacity to Bombay V.T.

3. He made a representation to the Deputy Chief Commercial Superintendent, Bombay V.T. requesting for cancellation of his transfer on account of his family difficulties. As he failed in that attempt, he filed the writ petition in the Nagpur Bench of the Bombay High Court on 23rd May, 1983.

4. On the next day when the matter came up before the High Court, the applicant requested for interim stay of the transfer and the High Court granted the stay in terms of prayer clause (c). In result the applicant is successful in remaining at Nagpur since then.

5. The applicant today requested for an adjournment on the ground that his advocate is unable to come to the Tribunal today. But I have rejected his request in view of the stay order granted by the High Court which is in force for more than  $\frac{1}{2}$  years. I have heard the applicant in person as well as Mr. Bhavsar (for Mr. D. S. Chopra) the learned advocate for the respondents.

6. It appears that because of the difficulties expressed by the applicant the stay was granted by the High Court. In his representation dtd. 19-2-83 made to the Chief Commercial Supdt., Central Railway, Bombay V.T. he had given certain grounds for cancelling his transfer on sympathetic grounds. His first ground was that his wife was recently operated upon and she had developed some troubles. In answer to a query by me the applicant clarified that his wife is now alright. The second ground given in his

representation was that there was no adult member in his family, except himself, to look after his family. His family consists of his old mother, wife, a son, now aged 20 years and a daughter now aged 14 years. This ground which is common in such cases should not come in the way of his transfer.

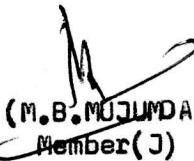
7. During the course of the argument the applicant submitted before me that the post which he is now holding is not transferable. In support of his submission he relied on a letter dt. 25-5-1979 issued by the Divisional Superintendent, Nagpur. But after going through it carefully I do not find that post of Catering Manager is not transferable. I have already stated about the transfers of the applicant. The applicant has also referred to his transfers in his representation dt. 19-2-83. It is therefore clear that there is no substance in the submission that the post of the Catering Manager is not transferable.

8. The respondents have pointed out in their written statement that two catering managers, like the applicant ( V.G. Randive and D.P. Agnihotri ), had challenged their transfers from Nagpur to some other places by filing a writ petition. In that writ also the High Court had granted stay in 1982, but after it was transferred to this Tribunal it was dismissed on 5-6-1987. Against that decision they had preferred a petition for special leave to appeal which was numbered as Special Leave to Appeal (Civil) No. 8177/1987. But it was dismissed by the Supreme Court on 26-8-1987. The applicant stated before me that one of them Shri Agnihotri is transferred to Ballarshah and the other is being transferred to some other place. This supports the view that the post held by the applicant is transferable.

9. I therefore find no merit in this application and hence this application is liable to be dismissed with some costs, which I quantify as Rs.500/-.

10. In result I pass the following order :-

- (i) The application is dismissed.
- (ii) The interim order passed by the High Court on 24-5-1983 staying the operation of the impugned transfer order dtd. 16-2-83 is vacated.
- (iii) The respondents will be at liberty to carry out the same transfer dtd. 16-2-83 or pass another transfer order as they may deemed proper.
- (iv) The applicant shall pay Rs.500/- as costs of this case to the respondents.

  
(M.B. MUJUMDAR)  
Member (J)