

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

Original Application No. 608/87.

Shri Suhas D.Samant,
C/o.S.R.Atre,
Advocate High COurt,
B-5/2, Suman Nagar,
Sion Trombay Road,
Chembur,
Bombay-400 071.

... Applicant

V/s.

1. The Secretary,
Government of India,
Ministry of Environment and Forest,
Department of Environment, Forest and
Wild Life,
New Delhi.

2. Secretary to the
Government of Maharashtra,
Revenue and Forest Department,
Mantralaya, Madam Cama Road,
Bombay - 400 032.

... Respondents.

Coram: Hon'ble Member(A), Shri J.G.Rajadhyaksha.

Appearances:

Mr.S.R.Atre for the
applicants.
None present for the
Respondents.

Oral Judgment:-

Dated: 10.12.1987.

This application under section 19 of the
Administrative Tribunal Act had been filed by the applicant
against an order dt. 14th August, 1987 transferring him
from his posting in Nasik as Deputy Conservator of Forest to
Bombay as Officer on Special Duty in the Revenue and Forest
Department of the Government of Maharashtra. The applicant
belongs to the Indian Forest Service. The relief that
applicant seeks is that the transfer order should be
quashed as being bad, mala fide, null and void ab initio,
unlawful and un-constitutional. He also seeks consequential
reliefs.

...2.

2. The applicant had sought interim relief which was granted to him on 16.9.1987 as it appeared that applicant had represented against the transfer and there was every likelihood that it would be postponed by six months. In the Civil Suit filed by the applicant in the Bombay City Civil Court being Short Causes Suit No.6377/1987, status quo order had been granted and, therefore, in fact it was continued on 16.9.1987.

3. On 25.9.1987 the matter came up for admission hearing and considering the question of interim relief beyond 28.9.1987. After hearing the matter at length and considering the guidelines which normally governed transfers of government employees from one place to another, the interim order passed on 16.9.1987 was vacated by a detailed order, but Respondents were, however, directed to permit the applicant to retain his official quarters at Nasik upto the 30eth April, 1988, provided that the applicant joined his new posting within two weeks. The application was also admitted. The reply filed by the Respondents was taken on record and the matter was fixed for final hearing on 10.12.1987.

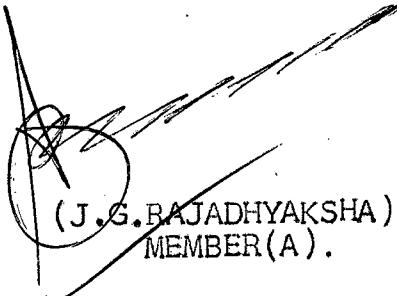
4. Today, the applicant is not present but his Learned Advocate Mr.S.R.Atre is present. He argued the matter. Nobody is present on behalf of the respondents. Mr.Atre stated that the applicant had actually joined his posting in Bombay in compliance with the Tribunal's orders dt. 25.9.1987. He, however, reiterated the contentions in the application that the applicant was not due for transfer, that he would be severely inconvenienced if he is transferred to Bombay especially with reference to residential quarters and the education of his children. He further argued

that the transfer had been ordered merely to accommodate somebody else and was not, therefore, bona fide in the interest of administration.

5. The Respondents in their written statement had averred that Shri Alinda Chandra, an Indian Forest Service Officer, who was working as Officer on Special Duty, Revenue and Forest Department having been deputed for training, it became necessary for Government to fill his post, especially by an Officer who knew Marathi. There was therefore no mala fide intention nor was it correct that the applicant was being transferred to accommodate another I.F.S. Officer as alleged in the application. It was also averred that there was no colourable exercise of power by respondents to penalise the applicant in any way. There was, therefore, a prayer that the application be dismissed.

6. Having heard the Learned Advocate for the applicant and perused the record, I wish only to observe that transfer is a necessary incidence of service, and any allegations of mala fides or unconstitutionality that may freely be made without foundation in case of every transfer need to be ignored if there is no *prima facie* cause to suspect such mala fides. In the present case the City Civil Court had granted a stay in order to study the legal position regarding jurisdiction. There was no suggestion that that Court had accepted the allegations of mala fides. The reply of the Respondents is adequately eloquent about the necessity of posting a suitable Officer from the Indian Forest Service in the Revenue and Forest Department for attending to some special type of work.

In fact, the Government had paid a complement to the applicant by selecting him for this post. It has also been explained that there was neither any mala fide intention nor any bias against the applicant. I do not therefore, see that the applicant has made out any case for striking down his transfer to Bombay. Further it is significant that pursuant to the Tribunal's Orders dt. 25.9.1987 the applicant has already assumed charge of his new posting in Bombay and since the only grievance of the applicant was against transfer, it can safely be assumed and held that the application has become infructuous by applicant's action. In the circumstances the application is dismissed. Parties to bear their own costs.


(J.G. RAJADHYAKSHA)
MEMBER(A).