

(6)

CAT/J/12

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCHQ*x*A*x*N*x* Stamp No.533/88 198  
T.A. No.DATE OF DECISION 11.8.1988Shri Mamen Mathai

Petitioner

Shri S.S.Lanke

Advocate for the Petitioner(s)

Versus

Union of India and three others RespondentsShri Masurkar

Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice Chairman

Smt.  
The Hon'ble Mr. J.A.Dayanand, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? - 49
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?

MGIPRRND-12 CAT/86-3-12-86-15,000

*B.C.G.**Ad*

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY 400 614

Stamp No. 533/88

Mamen Mathai,  
Flat No.2341,  
Building No. 200,  
Sector VI,  
C.G.S.Colony, Antop Hill,  
Bombay 400 037.

Applicant

v/s.

1. Union of India through  
The Secretary,  
Ministry of Defence,  
Dept. of Defence Production,  
DHQ Post Office, Dak Ghar,  
New Delhi 110 011.
2. Major General T.V.Manoharan  
Director of Quality Assurance  
(Armaments), Ministry of Defence,  
Deptt.of Defence Production (DGQA)  
(ARM-1), DHQ Post Office, Dak Ghar,  
New Delhi 110 001.
3. Brigadir Ramesh Chander,  
Controller of Quality Assurance  
(Ammunition), Controllerate of  
Quality Assurance, Khadki,  
Pune 411 003.
4. Col.Chander Mohan Sharma,  
Senior Quality Assurance Officer,  
Senior Quality Assurance Establishment  
(Armaments, DGQA Complex, LBS Marg,  
Vikhroli, Bombay 400 083.

Respondents

CORAM: Hon'ble Vice Chairman Shri B.C.Gadgil  
Hon'ble Member (A) Smt. J.A.Dayanand

Appearance :

Shri Suresh Lanke  
Advocate  
for the Applicant

Shri Masurkar  
Advocate  
for the Respondents

ORAL JUDGMENT

Dated: 11.8.1988

(PER: B.C.Gadgil, Vice Chairman)

Heard Mr.Lanke for the applicant and Mr.Masurkar  
for the respondents. In our opinion, the application  
deserves to be summarily dismissed for the following  
reasons.

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2. The applicant and one Shri Sherkar are working in the office of the Quality Assurance Department. Before May, 1988 both of them were Chargeman Grade I. The next promotional post is that of Assistant Foreman. The applicant and Sherkar were eligible for promotion, hence on 5.5.1988 they were promoted. The applicant was transferred to Varangaon while Sherkar was transferred to Trichy. They made representation contending that their transfer should be changed. The applicant wanted a posting at Kirkee or Dehu Road while Sherkar requested that he may be considered for Kirkee, Dehu Road, Varangaon or Ambazari. It appears that the Bombay office rejected the representations. However, the matter was again considered by the Department of Defence Production Headquarters, New Delhi and on 20.7.1988 the Headquarters amended the earlier transfer orders. It is not an amendment only about applicant or Sherkar but certain other persons were also considered. By that order the applicant was transferred to Trichy while Sherkar was transferred to Varangaon. During the course of arguments, we were told that Sherkar was relieved from Bombay posting and has taken charge at Varangaon.

3. It is this subsequent order transferring the applicant from Bombay to Trichy that is being challenged before us.

4. It was contended by Mr. Lanke that a discriminating treatment was given to the applicant by changing his transfer from Varangaon to Trichy. He relied upon the decision of Bombay High Court in the case of Sheshrao Nagarao Umap vs. State of Maharashtra and others reported in 1984 SLR (2) 328. It was a mid-term transfer in which the administration transferred a particular person with a view to accommodate some one else. This transfer was challenged before the Bombay High Court and the High Court held that such a

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transfer only to accommodate some person will be malafide. It is, however, material to note that here the transfer is not a mid-term transfer. It is a transfer on promotion. A number of persons were promoted and transferred. Hence, the principle in the above mentioned case will not help the applicant.

5. It is true that applicant's transfer to Varangaon is subsequently changed to Trichy. However, that alone would not make it a malafide transfer. Mr. Masurkar is right when he contends that Sherkar has made a representation that instead of Trichy he may be transferred either to Kirkee, Dehu Road, Varangaon or Ambazari. It will be difficult to accept the contention of the applicant that consideration of such request can be treated as malafide action on the part of the department.

6. The result therefore is the application is summarily dismissed with no orders as to costs.

*B.C.Gadgil*  
(B.C.Gadgil)  
Vice Chairman

*Dayanand*  
(Smt.J.A.Dayanand)  
Member (A)