

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXXXXXXXXX~~
NEW BOMBAY

O.A. No. 135/88

198

~~XXXXXXXXXX~~DATE OF DECISION 20-4-1988.Vijaykumar Shankar Apte. PetitionerShri N.P. Bapat. Advocate for the Petitioner(s)

Versus

General Manager, Western Railway, H.Q. Office,
Churchgate, Bombay-20. RespondentShri A.L. Kasturey. 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*

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A.135/88

Vijaykumar Shankar Apte,
2/54, Goregaonkar Building,
Girgaum,
Bombay - 400 004.

.. Applicant.

vs.

General Manager,
Western Railway,
H.Q. Office,
Churchgate,
Bombay - 400 020.

.. Respondents.

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

Appearances:

1. Shri N.P. Bapat
Advocate for the
Applicant.
2. Shri A.L. Kasturey,
Advocate for the
Respondents.

ORAL JUDGMENT

Date: 20-4-1988

(PER : M.B. Mujumdar, Member(J))

By this application filed under Section 19 of the Administrative Tribunals Act, the applicant had challenged his transfer from Bombay to Bhavnagar.

2. Since 1974 the applicant was working as Hindi Assistant at the Head Quarters of Western Railway at Bombay. In 1979 he was transferred from that office to the office of the Chairman of the Railway Service Commission. There is only a road between these two offices. There were some complaints about the working of the office of the Railway Service Commission between 1980 to 1983. The complaints were entrusted to the CBI for investigation. After completing the investigation the CBI has filed a chargesheet in the Court of Special Judge at Bombay. The chargesheet is under Section 5(1)(d)

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of the Prevention of Corruption Act and Sections 120B and 161 of IPC and some other sections of the Indian Penal Code. The chargesheet is numbered as Special Case No.6/1987. There are in all 10 accused in that case. The Chairman (who died after the chargesheet was submitted), three Members of the Railway Service Commission (one of whom has retired subsequently) and six employees from the office including the applicant, By an order dtd. 29-7-1987 the applicant was suspended. But on his representation dtd. 18th August, 1987 that suspension was revoked by order dtd. 27-1-1988. I am told that all the accused persons in that case were suspended and their suspension orders were revoked and all of them except one are transferred to different places. By the impugned order dtd. 1-2-1988 the applicant is transferred from Bombay to Bhavnagar in the same capacity as Hindi Assistant Gr.II. The applicant has filed this application on 23-2-1988 challenging that transfer from Bombay to Bhavnagar.

3. On 23-2-1988 after hearing Shri N.P. Bapat, the learned advocate for the applicant, the application was admitted and the impugned order of transfer was stayed upto 8-3-1988. By an order dtd. 8-3-1988 the stay was continued until further orders. On next date i.e. on 23-3-1988 Shri Kasturey, advocate, appeared for the Respondents and requested for vacating the stay order. ^{They were} He was directed to file an application for vacating the stay order if the respondents so want. Accordingly they have filed Misc. Petition No.209/88 for vacating the stay order.

4. The respondents have filed their reply to the main petition pointing out that the transfer of the applicant was in public interest and that he is already relieved on 3-2-1988 in pursuance of the transfer order.

5. By consent of advocate for both the sides I am disposing of this application finally.

6. I have heard Shri N.P. Bapat the learned advocate for the applicant and Shri A.L. Kasturey, the learned advocate for the respondents and I am satisfied that the transfer of the applicant from Bombay to Bhavnagar was in public interest.

...3.

7. As already pointed out the CBI has filed Special Case No.6/87 against the applicant and 9 others. Except the Chairman who expired and one Member of the Commission who retired, all the other accused persons in that case were first suspended and after their suspension was revoked all of them, except one, are transferred to different places. It was not disputed that the post of the applicant is a transferable one. He was working as Hindi Assistant from 1974 at the Head Quarters of the Western Railway at Churchgate and since 1979 he was working in the office of the Railway Service Commission at Churchgate itself. It was submitted before me that the applicant was merely a Hindi Assistant and his main work was to translate documents from English to Hindi. But it appears that some other work was also being done by him from time to time. Respondents have pointed out in their written statement that as the case in the Court of Special Judge at Bombay is likely to take quite some time for decision the Administration had taken a sympathetic view and revoked the suspension order so that the applicant may go on getting his monthly salary. It is further pointed out that the Railway Board who were requested for permission to revoke the suspension order had permitted to revoke the suspension order with the understanding that the applicant may be taken back on duty but posted out of Bombay division. It is in pursuance of that that the applicant is transferred to Bhavnagar.

8. It is true that the respondents have not transferred one of the permanent employees. But that may be for some good reason. Moreover the copy of the letter dt. 3-2-1988 addressed to Works Manager of the Western Railway, Bhavnagar shows that the applicant was relieved on 3-2-1988 itself. Instead of joining his posting at Bhavnagar he has rushed to this Tribunal for quashing the transfer order.

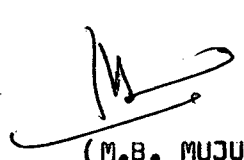
9. From the facts which are stated above I donot think that the transfer order is liable to be quashed.

10. Lastly Shri Bapat submitted that the applicant's wife is disabled being a polio victim and his father-in-law with whom he is staying is 75

years old and a heart patient. This and some other grounds are given by the applicant in para 6(10) of the application for cancelling the transfer order on sympathetic grounds. But in view of the circumstances of this case these grounds fail to impress me, such grounds are routine and common when transfer is challenged.

11. In result the application is dismissed with no order as to costs. The stay order passed by this Tribunal on 23-2-1988 is vacated.

12. Misc. Petition No.209/88 is also disposed of.


(M.B. MUJUMDAR)
MEMBER(J)