

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

Transferred Application No. 325/86.

Shri K. Venkateswar Rao, Esmer Rao
Supervisor, "A", Security,
Ordnance Factory,
Ambernath.

... Applicant.

V/S

1) The Union of India,
Through the Secretary
to the Govt. of India,
New Delhi.

2) The Chairman,
Ordnance Board,
Park Street,
Calcutta.

3) The General Manager,
High Explosives Factory,
Kirkee, Pune - 3.

... Respondents.

Coram: Hon'ble Vice-Chairman, B.C. Gadgil.

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

Appearance:

- 1) The applicant in person.
- 2) Mr. J.D. Desai
(for M.I. Sethna) Advocate
for the Respondents.

ORAL JUDGMENT:-

(Per B.C. Gadgil, Vice-Chairman)

Date: 20.4.1987

Regular Civil Suit No. 1644/1985 of the file of
the Civil Judge, Senior Division, Pune is transferred to
this Tribunal for disposal.

2. The applicant (Original Plaintiff) was working as Supervisor Gr. A in the High Explosives Factory at Kirkee. On 30th August, 1985 he was transferred from Kirkee to the Ordnance Factory at Ambernath. This transfer order is challenged in the present proceeding. It appears that the

applicant has prayed for an ad-interim relief of staying the order. That prayer was not granted by the Civil Court. Consequently, the applicant has taken charge as Supervisor "A" in the Ordnance Factory at Ambernath.

3. In the application, the applicant has challenged the transfer order on a number of grounds. For example, he has contended that there are some other supervisors of "A" Grade who are senior to the applicant and that one of them should have been transferred. The applicant has also raised a contention that his daughters are taking education and a transfer from Kirkee to Ambernath would prejudicially affect their education. His last contention is that promotion from the post of Supervisor "A" grade to the post of Chargeman Gr. II is made on the basis of the Station Seniority and not on basis of All India Seniority, and that on account of his transfer to Ambernath, he is likely to be prejudicially affected so far as the promotional post is concerned.

4. The respondents by their reply allege that the transfer of a Government Servant is primarily an administrative aspect, and that education and other problems are incidental to the transferability and that the transfer cannot be declared bad simply because there would be some problem about the education of the applicant's daughters. As for the omission to transfer some other senior Supervisor "A" from Kirkee it was contended that it would be irrelevant. The respondents admit that the promotion to the post of Chargeman Gr. II is dependant on Station seniority and not on All India seniority. They, however, contended that the applicant's promotional avenue is not likely to be prejudicially affected as the applicant would

be the senior most Supervisor "A" even at Ambernath.

5. We have heard the applicant and also Mr. J.D. Desai (for Mr. M.I. Sethna) advocate for the Respondents. We are not much impressed by the contentions of the applicant about the plea of educational difficulties of the daughters and about the omission to transfer some senior Supervisor from Kirkee. The applicant also frankly stated before us that he would not make any grievance about this transfer, provided the promotional prospects to the post of Chargeman Gr. II are not prejudicially affected. He argues that he should be considered for promotion to such post whenever there is a vacancy at Kirkee, and that this consideration should be based on his seniority as Supervisor Gr. A at Kirkee.

6. We have already observed that the promotion to the post of Chargeman Gr. II is dependant on Station seniority. It was contended by the Respondents that the applicant is the seniormost Supervisor Gr. A at Ambernath, and that he would be considered for the promotional post of Chargeman Gr. II at Ambernath on the basis of that seniority. The applicant's contention is that his seniority at Kirkee Station should be taken into account whenever there will be a vacancy at Kirkee in the post of Chargeman Gr. II. The applicant contends that the genuineness of his grievance can be properly appreciated by taking an illustration, where a vacancy of Chargeman Gr. II at Kirkee would occur earlier and there may not be any such vacancy at Ambernath. His grievance is, in that case he will not get the post of Chargeman Gr. II at Kirkee and at the same ^{true} he will have to wait a longer period till any vacancy occurs at Ambernath. According

to him, the time gap between the two vacancies may be even one year or two years and thus the impugned order would be prejudicial to him.

7. In our opinion there is much substance in the contention of the applicant as the said promotion is dependant on the Station seniority. The applicant should not be asked to lose the seniority at Kirkee simply because he is transferred to Ambernath. Thus, though the respondents would be within their rights to transfer the applicant to any place on Administrative grounds, still care should have to be taken that his chances of promotion on the basis of his seniority at Kirkee should not be disturbed. Accordingly, we pass the following order:-

ORDER

- 1) The application partly succeeds.
- 2) Applicant's prayer for quashing the transfer order is rejected, as not pressed.
- 3) The respondents are directed to consider the case of the applicant for promotion to the post of Chargeeman Gr. II at Kirkee (whenever such vacancy arises) on the basis of his placement in the Seniority List of Supervisor Grade "A" at Kirkee.
- 4) With these directions the application is disposed of.
- 5) Parties to bear their own costs.

B.C. Gadgil

(B.C. GADGIL)
VICE-CHAIRMAN.

S.G. RajadhyaKsha
(S.G. RAJADHYAKSHA)
MEMBER (A)