

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 817/89

~~XXXXXX~~

198

DATE OF DECISION 19.1.1990Atul Krishna Mandal

Petitioner

Anup Sinha

Advocate for the Petitioner(s)

Versus

Secretary, Min. of Defence & Ors.

Respondent

M.I. Sethna

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. M.Y. Priolkar, Member(A)

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*

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.817/89

Atul Krishna Mandal,
C/o.T.Pt.Coy.ASC(Civ GT)
Type A.
Pune 411-001

.. Applicant

V/s.

1. Major Narain Kaul
Officer Commanding,
752 T.pt.Copy.ASC(Civ GT)
Type-A, Lullanagar,
Pune -411 001.

2. Lt.Gen.Gorakh Nath,
Director ASC&Transport,
Quarter Master General,
Army Head Quarters,
New Delhi.

3. Secretary,
Ministry of Defence,
New Delhi.

.. Respondents.

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

Appearances:

1. Mr. Anup Sinha,
Advocate for the
Applicant.

2. Mr.M.I.Sethna
Counsel for the
Respondents.

ORAL JUDGMENT

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

Dated 19.1.1990

The applicant A.K.Mandal was appointed as a temporary Driver Gr.II with effect from 28.3.1981 on certain terms in 741 Transport Company, Army Service Core at Siliguri in West Bengal. In March, 1987 he was transferred to the Army Service Core Unit at Pune. By movement order dated 12.10.1989 he is transferred to Pathankot. He was given 15 days joining time with effect from 19.10.1989 to 2.11.89. He was to join at Pathankot on 2.11.1989 and accordingly he has joined there on that date. However, when he was enjoying the joining time he has filed this application on 24.10.1989 challenging his transfer to

5

Pathankot. In para 6(c) he has alleged that respondent No.1 had defied all the norms and principles of natural justice and ethics and has kept over one hundred employees of his organisation in very humiliating and barbaric conditions. The applicant raised his voice for getting the much needed justice and for that purpose wrote on various occasions to respondent No.1 highlighting various issues/problems/shortcomings prevalent in the organisation headed by respondents No.1 and 2. But instead of paying any heed to the requests, respondent No.1 started intimidating all the drivers and other staff members of the organisation. The applicant had approached the higher authorities also. According to the applicant it is because of such activities that he is transferred to Pathankot.

2. The respondents have filed the affidavit of Major N.Kaul, Officer Commanding, 752 Transport Core, Pune. He has pointed out that the applicant was working in Pune since March, 1987. The transfer order was issued by Army Service Core Records(MT), Bangalore which is the competent authority for transferring such persons. According to Major N.Kaul his office has merely carried out the order of transfer by issuing the movement order to the applicant. He has further pointed out that according to the relevant guidelines a person who completes 2 years at a particular station is liable to be transferred anywhere in India. On this and other grounds he has opposed this application.

3. The appointment order itself shows that the appointment of the applicant was subject to Discipline under the Army Act and subject to All India Service Liability and Field Service Liability. The appointment was also subject to terms and conditions as laid down in AI 182/51 as amended from time to time. It was not disputed before us that the services of the applicant were liable to be transferred


6

anywhere in India. He was at Pune for about 2 years and 8 months and it is difficult to hold that his transfer was premature. Though he had alleged in the application that he was transferred because he was raising his voice against the humiliating and barbaric conditions in which he and other members are required to serve, we find from the reply of the respondents that the transfer order was issued not by the respondents' office but by the Army Service Core Records(MT) office at Bangalore. Hence we find no merit in this application.

4. We may point out that the applicant has joined his posting at Pathankot on 2.11.1989. Of course, it must be because he could not obtain stay from this Tribunal.

5. Then the respondents have raised the question about the jurisdiction of this Tribunal. But we do not find it proper to decide that point as the applicant has not case on merits.

6. In result we reject the application summarily with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(M.B. MIJUMDAR)
MEMBER(J)