

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO.81/96 in OA.NO.527/96

29th this the day of August 1996

CORAM: Hon'ble Shri B.S.Hegde, Member (J)

G.N.VYAS ... Applicant

V/s.

Union of India & Ors. ... Respondents

Tribunal's Order by Circulation

In this Review Petition the applicant is seeking review of the judgement dated 11.7.1996.

2. In the OA. the applicant has challenged the transfer order issued by the respondents vide dated 16.5.1996 transferring the applicant from Bombay to Madras. The said order was challenged on the ground of malafide or arbitrariness on the part of the respondents. The Tribunal after hearing both the parties, dismissed the application on merits. Since the allegation of malafide is not proved except the allegation, no further proof has been adduced by the applicant. The question of public interest is to be determined by the Government and not by the Tribunal. Malice will be proved when it is shown that the discretionary power has exercised from an unauthorised or extreaneous purpose, none of the grounds exists in this case. The Court does not decide cases in the abstract. It undertakes determination of a controversy provided it is necessary in order to give relief to a party.

3. It is a well settled principle that review petition is maintainable if there is an error apparent on the face of the record or discovery of new and important matter or evidence is found out. On perusal of the review petition, I find that the main contention of the applicant is that as per guidelines or transfer policy, he should not have been transferred to Madras. The Apex Court in catena of cases in regard to transfer has held, whom to transfer and to where it is the prerogative of the respondent department and not the function of the court. The review petition cannot be utilised for rearguing the case on the same ground. A review must be subject to the rules of the zone and cannot rightly be entertained. Since the applicant did not make out any grounds for review of the judgement and the grounds raised in the R.P. are more germane for an appeal against the judgement and not for review. Accordingly, the Review Petition is dismissed.

B.S. Hegde
(B.S. HEGDE)
MEMBER (J)

dt 29/8/96
Order/Judgement despatched
to Applicnt/Respondent(s)
on 29/8/96

SG
29/8/96