

11/10

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 34/96

Transfer Application No.

Date of Decision

12.11.96

P.K.Kochumamachan

Petitioner/s

Shri Suresh Kumar

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K.Shetty

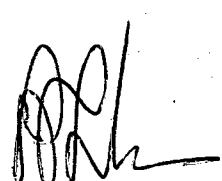
Advocate for
the Respondents

CORAM :

Hon'ble Shri. P.P.SRIVASTAVA, MEMBER (A)

Hon'ble Shri.

- (1) To be referred to the Reporter or not ? ☒
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? ☒


(P.P.SRIVASTAVA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 34/96

Tuesday this the 12th day of NOVEMBER 1996

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

P.K.Kochumamachan
r/o Plot No. 9,
Aero View Co-operative Hsg.Society,
Bhairav Nagar, Dhanori, Dighi,
Pune-411 015.

By Advocate Shri Suresh Kumar ... Applicant

V/S.

1. The Secretary to Govt. of India
Ministry of Defence (Finance),
'G' Block, New Delhi-110 011.
2. The Controller General of
Defence Accounts, West Block-V,
R.K.Puram, New Delhi-110 066.
3. The Controller of Defence Accounts
(Southern Command) Pune-411 001.

By Advocate Shri R.K.Shetty ... Respondents
C.G.S.C.

O R D E R

(Per: Shri P.P.Srivastava, Member (A))

The applicant is working as Senior Auditor in the office of PAO, GREF, CDA (Southern Command) in the Defence Accounts Department, Pune. The applicant has been transferred from Pune to Kandivli, Bombay vide order dated 2.1.1996 placed at Annexure- 'A-1'. The applicant has challenged this transfer order mainly on the ground that the transfer is discriminatory and violative of transfer policy

which is placed at Annexure-'A-4'. Especially the applicant has submitted that his transfer order is against Para 372 of the policy laid down for 'Transfers from Static Offices'.

2. The applicant has also challenged the transfer on the ground that Ministry of Personnel has issued instructions that husband and wife should be posted at the same station and his wife is working at Pune, in a Government post and therefore he should not be transferred from Pune.

3. The Learned counsel for the respondents has brought out that transfer has been done in the interest of administration and has brought to my notice the Hon'ble Supreme Court judgement in Mrs. Shilpi Bose & Ors. vs. State of Bihar & Ors. (AIR 1991 SC 532), wherein it has been held that :-

" A Govt. servant holding a transferable job has no vested right to remain at one place or the other. He is liable to transfer. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if an order is passed in violation of executive instructions, the courts ordinarily should not interfere with the order, instead affected party should approach the higher authorities in the department."




4. Learned Counsel for the respondents has also brought out the Hon'ble Supreme Court's decision in State of Madhya Pradesh & Anr. vs. Sri S.S.Kourav & Ors. 1995(2) A.I.S.L.J. 109, wherein it has been held that :-

" The courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts of tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background foundation."

5. Learned counsel for the respondents has also mentioned that the issue of transfer when husband and wife both are working at a same station specifically considered by the Hon. Supreme Court in Union of India & Ors. vs. S.L.Abbas, AIR 1993 SC 2444, wherein it has been held that the transfer order even if it is made against policy does not give the employee any legal rights.

6. Learned counsel for the applicant relied on judgement of the CAT, Madras Bench delivered on 20.2.1992 in OA.Nos. 756 and 757 of 1991 but this does not help the applicant in view of the above mentioned decisions of Hon'ble Supreme Court.

.. 4/-



7. In view of the clear cut law laid down
by Hon. Supreme Court,
in the above mentioned cases, there is no merit
in the application as the applicant has not
challenged the transfer order either on the
grounds of malafides or ^{that} it is violative of
any statutory orders. The OA. is, therefore,
liable to be dismissed and is so dismissed.
There will be no order as to the costs.



(P.P. SRIVASTAVA)

MEMBER (A)

mrj.