

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 416 of 1999.

Dated this Thursday, the 21st day of October, 1999.

Dr. B. R. Solanki, Applicant.

Shri A. I. Bhatkar, Advocate for the
applicant.

VERSUS

Union of India & Another, Respondents.

Shri R. K. Shetty, Advocate for the
Respondents.

CORAM: Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

(i) To be referred to the Reporter or not ? ND

(ii) Whether it needs to be circulated to other Benches ND
of the Tribunal ?

(iii) Library. ND

R. G. Vaidyanatha

(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Dated this Thursday, the 21st day of October, 1999.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Dr. B. R. Solanki,
Assistant Director of Education.
Residing at -
Viking Building,
Wadi fadia, Near Daman Talkies,
NANI DAMAN - 396 210. Applicant.

(By Advocate Shri A.I. Bhatkar).

VERSUS

1. The Administrator,
U.T. of Daman & Diu,
Secretariat, Nani Daman.
2. Director of Education,
U.T. of Daman & Diu,
Secretariat, Nani Daman. Respondents.

(By Advocate Shri R. K. Shetty).

O R D E R (ORAL)...

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

In this application, the applicant is challenging the impugned order of transfer dated 27.04.1999. The respondents have filed reply opposing the application. I have heard Mr. A.I. Bhatkar, the Learned Counsel for the applicant and Shri R. K. Shetty, the Learned Counsel for the respondents regarding admission.



2. The applicant was working as an Assistant Director of Education at Daman. Through the impugned order, he has been transferred as Principal of Higher Secondary School at Vanakbara, Diu. It is also brought to my notice that the applicant has been relieved from the present post and he has already joined the new post on 10.05.1999.

3. The applicant challenges the impugned order on the ground that it amounts to virtually demotion. The Learned Counsel for the applicant explains that as Assistant Director of Education the applicant had more administrative powers but as a Principal of a Higher Secondary School he has no such powers, therefore, virtually the order amounts to demotion. It was also further contended that this transfer is made in order to accomodate one Shri L. S. Borate, who has been now posted as Assistant Director of Education on adhoc basis.

As far as the second point is concerned, we cannot go into that question, since Mr. L. S. Borate is not a party-respondent in this case. It is true that the Assistant Director of Education may have more administrative powers than a Principal of an Institution. But it is now brought to my notice that as per the Recruitment Rules, both, the Principal and the Assistant Director of Education are equivalent posts with equal scale of pay. In service matters there are many posts where they



may not be having administrative powers and some posts may be insignificant but if all the posts have same grade of pay, then transfer from one post to another is the prerogative of the administration and the order of transfer cannot be challenged on the ground that the post which the officer was holding had more powers and the post to which he is now posted has no powers or little powers, as long as both the posts are in the same grade and in the same rank.

In the present case, it is not disputed that the applicant does not suffer either by rank-wise or by pay-wise due to the impugned order of transfer. The question that one post has more administrative powers than the others, is not relevant when we are considering the legality of the order of transfer. Therefore, in my view no case is made out for admitting the application. The Learned Counsel for the respondents also made a submission at the bar that applicant's services were found necessary to be utilised in running an educational institution in view of his past experience and therefore, the administration thought that it is desirable to post him as a Principal of the Institution. Therefore, in my view, this Tribunal cannot sit as an Appellate Authority over administrative orders of transfer and since the impugned order does not suffer from any illegality, no ground is made out for admitting the application.4



4. In the result, the application is rejected at the admission stage. No order as to costs.


(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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