

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 558/99

DATE OF DECISION: 7.10.1999

Shri H.R. Chawla Applicant.

Shri S.P. Kulkarni. Advocate for  
Applicant.

Versus

Union of India and others. Respondents.


Shri P.M. Pradhan. Advocate for  
Respondent(s)

CORAM

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

Hon'ble Shri

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to  
other Benches of the Tribunal? *no*
- (3) Library. *no*

  
(R.G. Vaidyanatha)  
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:558/99

THURSDAY the 7th day of OCTOBER 1999.

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

H.R.Chawla,  
Mechanical Engineer (Senior)  
Central Region,  
Geological Survey of India,  
Nagpur.

...Applicant

Applicant in person.

V/s

1. The Union of India through  
Secretary  
Ministry of Mines,  
Shastry Bhavan,  
New Delhi.
2. The Director General  
Geological Survey of India  
27, Jawaharlal Nehru Road/Road  
Calcutta.
3. Shri B.Kumar  
Dy. Director General (Drilling)  
Geological Survey of India  
Calcutta.
4. Shri V.K. Kansal  
Director (Drilling)  
Geological Survey of India  
Nagpur.
5. Shri M.R. Puntambekar  
Mechanical Engineer (Senior)  
Geological Survey of India  
Nagpur.

...Respondents.

By Advocate Shri P.M.Pradhan.

ORDER (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

This is an application filed by the applicant challenging the order of transfer dated 24.3.1999. The respondents have filed reply on behalf of respondent No.1 to 3. Respondent No.4 and 5



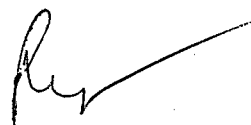
have been served but they have not appeared. The OA is taken up for hearing regarding admission today. Shri S.P.Kulkarni sought permission to withdraw his appearance since the applicant want to argue the case personally. Permission granted. Applicant argued his case in person. I have heard Shri P.M.Pradhan counsel for respondent No. 1 to 3.

2. By the impugned order dated 16.6.1999 the applicant who is working as Mechanical Engineer (Senior) at Nagpur has been transferred to the Eastern Region office Calcutta with effect from 15.7.1999 in public interest.

The applicant's case is that order of transfer was not in public interest and was with malafide intention. Though he has made number of grounds in the application, now the applicant presses before me only two grounds which will be considered one by one.

3. The official respondents have filed detailed reply and stated that order of transfer is in public interest.

4. The first ground urged by the applicant is that as per the Government guide lines both husband and wife should be kept in one place and since his wife is working in Nagpur he could not be transferred to Calcutta. On factual aspect the learned counsel for the respondents controverted the submission of the applicant stating that wife of the applicant is not a Government servant. The document at page 20 of the paper book shows that applicant's wife is working in a private school owned by a charitable society.



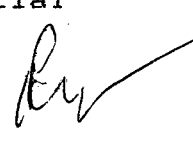
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Even otherwise guide lines of keeping both husband and wife in one place is not a statutory rule, but it is a general guide line to be observed. The Supreme Court in the case of Union of India V/s S.L.Abbas (AIR 1993 SC 2444) has observed that the transfer guide lines for keeping both husband and wife in one place is not a statutory rule. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. Therefore the first argument of the applicant has no merit and is hereby rejected.

5. The other submission of the applicant is that there is no post in Calcutta and therefore his transfer cannot be said to be in public interest. There is no merit in this contention. The applicant has been transferred to Eastern Region, Calcutta office which clearly means that he has been posted to the post available there. The applicant has not placed any material to support his contention that there is no post of Mechanical Engineer in Calcutta available. The learned counsel for the respondents stated that the administration cannot transfer a person to a post if relevant post is not available there.

6. Another contention of the applicant is that respondent No.4 and 5 are indulging in malpractice at Nagpur and therefore the applicant has been transferred to accommodate or to encourage respondent No.4 and 5 to continue the malpractice. Except the allegation made by the applicant and denial by the official

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respondents there is no material to show and support the allegation that official respondents have transferred the applicant to accommodated or to encourage the malpractices of respondent No.4 and 5. The law will take its own course. It has nothing to do with the transfer of the applicant.

7. The argument of the applicant that the retention of respondent No.5 who has been earlier transferred from Calcutta to Nagpur is also irrelevant. The present applicant himself has produced a copy of the order passed by me dated 10.12.1998 in OA 533/98. In that order application filed by respondent No.5 was rejected by considered order by me. But now the present applicant's transfer has nothing to do with the transfer of respondent No.5 to Nagpur. In fact both applicant and respondent No.5 are now working in Nagpur office. Therefore the transfer of the applicant has nothing to do with retention of respondent No.5 at Nagpur. Even if the present order of transfer is quashed, the applicant can continue at Nagpur and respondent No. 5 can also continue at Nagpur. Hence the argument of the applicant about the retention of respondent No.5 at Nagpur is irrelevant and has no merit.

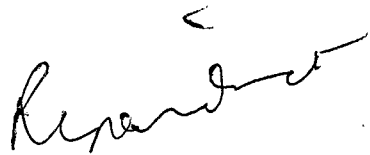
8. I am not impressed with the argument of the applicant that the transfer order is not in public interest and that there is no post at Calcutta etc. Whom to transfer and where to transfer is the prerogative of the administration. The Court or Tribunal cannot sit in appeal over the order of the administration. The scope of judicial review is very limited.

It is well settled in number of decisions of the Supreme Court that the Court or Tribunal cannot interfere with order of transfer when it is not malafide or contrary to any statutory rules. Mere allegation of malafides is not a ground to interfere by the Court or Tribunal with the order of the administration.

9. After considering the materials on record I do not feel that this is fit case for admission, hence the application deserves to be rejected at the admission stage.

10. The respondents would also states that the applicant is working at Nagpur for the last 30 years continuously except for a break of one year. If in such a case the administration has issued transfer order, applicant cannot have any grievance about his transfer.

11. In the result the OA is rejected at the admission stage. No order as to costs.

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN