

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH,
CAMP AT GOA

Original Application No.311/2000

Friday this the 28th Day of April, 2000

P. Nandkumar

Applicant.

Vs.

Garrison Engineer, Vasco, Goa
& Another


Respondents.

Coram : Hon'ble Shri Justice R.G. Vaidyanatha, Vice
Chairman.
Hon'ble Shri D.S. Baweja, Member (A).

(i) To be referred to the reporter or not?

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

(iii) Library.


(R.G. Vaidyanatha)
Vice Chairman.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI
CAMP AT GOA

ORIGINAL APPLICATION NO.311/2000

Friday, this the 28th Day of April, 2000

Coram : Hon'ble Shri Justice R.G. Vaidyanatha, Vice
Chairman
Hon'ble Shri D.S. Baweja, Member (A).

P. Nandkumar,
resident of T86/C MES Qtrs
Mangoor Hills, Vasco,
Goa.

.. Applicant.

Vs.

1. Garrison Engineer(NW),
Mangoor Hills,
Vasco (Goa)-403802.
2. Union of India, through
Secretary,
Ministry of Defence,
New Delhi.

O R D E R (Oral)

[Per : Justice R.G. Vaidyanatha, Vice Chairman]

This is an application filed by the applicant challenging the order of transfer dtd. 9.3.2000. We have heard the applicant who appeared in person regarding admission.

2. By the impugned order, the applicant stands transferred to Bangalore. The order of transfer says that he has to move forthwith. The applicant has not made out any legal grounds for challenging the order of transfer. It may be, that the representation against the transfer order is still not disposed of. But, that is no ground to interfere with the order of transfer.

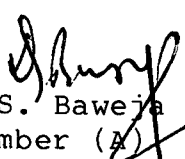
Now, it is fairly well settled by number of decisions of the Apex Court that Courts and Tribunals

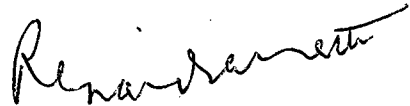


should not sit in appeal over administrative orders of transfer. It is further held by the Supreme Court that a transfer order can be challenged only on two grounds viz. if it is in violation of any statutory ^{rule or} ~~orders~~ ^{of} if the transfer order is malafide in nature. In this case there is neither allegation that the impugned order of transfer issued ⁱⁿ in violation of any statutory rule nor there is allegation that the order is malafide. Hence, we find no merit in the application and it does not deserve to be admitted.

3. As far as applicant's grievance that he has given a representation dtd.24.3.2000 and it is not yet disposed of, we observe that disposal of ~~the~~ application will not come in the way of Competent Authority to apply his mind and consider the applicant's representation dtd. 24.3.2000 and dispose it of according to law.

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

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(D.S. Baweja)
Member (A)

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(R.G. Vaidyanatha)
Vice Chairman.

B.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.: 27/2000 IN O.A. NO.: 311/2000.

Dated this Monday, the 26th day of June, 2000.

CORAM : Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.
Hon'ble Shri D. S. Baweja, Member (A).

P. Nanda Kumar ... Applicant

VERSUS

Union Of India & Another ... Respondents.

ORDER ON CIRCULATION

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

This is a Review Petition filed by the applicant seeking review of our order dated 28.04.2000 in O.A. No. 311/2000 in the Circuit Sitting at Goa. We have perused the review petition and the entire case papers.


2. By order dated 28.04.2000 we have rejected the applicant's application challenging the order of transfer. We have pointed out that orders of transfer cannot be challenged except on grounds of violation of statutory orders or the order of transfer being malafide.

3. Now the applicant has contended that the order of transfer and the order of movement is contrary to number of Government circulars or guidelines. The Government guidelines or Government instructions are not statutory orders. The Supreme Court has pointed out in the case of Union of India V/s. S. L. Abbas reported in AIR 1993 SC 2444 that Government guidelines do not confer any legally enforceable right on an employee, therefore, the order which is contrary to the guidelines cannot be interfered with by a Court or Tribunal unless the order is malafide or is made in violation of statutory provisions.

Therefore, the applicant's contention that the order of transfer/order of movement is contrary to Government instructions/guidelines is not a ground, even if true, to be interfered with. If the respondents have not disposed of the applicant's representation, then it is open to the applicant to make a fresh reminder to the administration. The applicant's grievance about non-payment of salary and allowance is also a matter which he has to take up with the administration. If the applicant has already been relieved at Panaji and he has not joined his post at Bangalore, it is very difficult to say as to how he is entitled to claim salary for this period. He has to report to the place where he is transferred and then claim the salary for this period by applying for leave to which he is entitled to and it is for the competent authority to decide whether the ^{leave} relief should be granted and then, if leave is granted, there will be no difficulty to get salary for that period. All these things cannot be urged by filing a review petition. The scope of review is very limited under Order 47 Rule 1 C.P.C. if there is some error apparent on record or discovery of new material so as to call for review. We find no merit in the review petition.

3. In the result, the Review Petition is rejected by this order on circular.


(D.S. BAWEJA)
MEMBER (A).


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

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