

Original Application No.784/2000

Dated: 08.02.2001

Jayaji A.Jadhav.

Applicant.

Shri Govind Ladhe

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri R.R.Shetty for Shri R.K.Shetty

Advocate for
Respondent(s)

CORAM :

Hon'ble Shri B.N.Bahadur, Member (A)

(1) To be referred to the Reporter or not? *Yes*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *X*

(3) Library. *X*

B.N.B.
(B.N.BAHADUR)
MEMBER (A)

8/2/01

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.784/2000.

Thursday, this the 8th day of February, 2001.

Coram: Hon'ble Shri B.N.Bahadur, Member (A),

Jayaji A.Jadhav,
Gautam Nagar,
Jalna Road,
Near Govt. Milk Dairy,
Aurangabad.

... Applicant.

(By Advocate Shri Govind Ladhe)

Vs.

1. Sr. Accounts Officer (AN) SC,
Office of the Controller of Defence
Account, Southern Command,
Pune - 411 001.

2. Assistant Accounts Officer,
Garrison Engineering,
Aurangabad.

... Respondents.

(By Advocate Shri R.R.Shetty for
Shri R.K.Shetty)

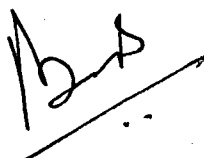
: O R D E R (ORAL) :

{Per Shri B.N.Bahadur, Member (A)}

This is an application made by Shri J.A.Jadhav in grievance against his transfer from Aurangabad to Ahmednagar issued vide Ex. 'A'. The matter is in a short compass and therefore, being decided at the admission stage after hearing Learned Counsels on both sides viz. Shri Govind Ladhe for Applicant and Shri R.R.Shetty for Shri R.K.Shetty for the Respondents.

2. The Applicant was posted at Aurangabad on the basis, admittedly, of his request in 1997 i.e. three years prior to the present transfer. The Learned Counsel has argued that inspite of this^a transfer to Ahmednagar is being made. These points would have carried weight with the Tribunal had the transfer come very

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shortly after the Applicant was posted at Aurangabad on request. In that case, it would have been somewhat illogical, but the transfer coming after three years, it cannot be said in the facts and circumstances of the case that this is an arbitrary action. Obviously, no right can accrue to a posting continuing for years together merely because the transfer is made on request.

3. I have seen other facts of the case also. There is mala fide alleged in para 4(a) of the application. But, no grounds are given either for establishing a case of malice in fact or malice in law. No vague allegations to mala fides can hold the ground in view of the settled law, and therefore, this contention will have to be rejected.

4. The other point taken by the Applicant's Learned Counsel is that the Applicant's wife is suffering from certain diseases where a Medical College Hospital (Teaching Hospital) really helps in the treatment. He submits that Ahmednagar has no such facilities and has merely a Civil Hospital, which does not have technical facilities of the level required. This is a point on which he may well have a genuine grievance, but it is not a point on which he can request for cancellation of transfer order by judicial determination, in accordance with settled law. It is a point which can be considered by the Respondents themselves, if they feel it is possible to accommodate him suitably with regard to the medical problems in his family. However, no directions can be given in this regard to Respondents.

5. Some other points were made by Learned Counsels and these have also been considered. For example, that there are vacancies at Auranagabad and that even people junior to him are at Aurangabad. Here also, it

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cannot be a ground for judicial determination in favour of the Applicant.

6. In view of the above discussions, therefore, this application is dismissed, with no orders as to costs. This Order will not come in the way of the Respondents themselves providing any relief on merits should they so feel appropriate.

B.N. Bahadur

(B.N. BAHADUR)
MEMBER(A)

B.