

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Monday the 19th day of November, 2001

ORIGINAL APPLICATION NO. 564 of 2001

Coram: Hon'ble Mr. B.N. Bahadur - Member (A) -

Digamber Bhiva Kambli,
S/o Bhiva Kambli,
r/o Clerk Grade - II,
O/o Business Manager,
Publication Division to Govt. of India,
2nd Floor, Commerce House,
Ballard Estate, Mumbai - 400 038.
(By Advocate Shri R.R. Dalvi)

- Applicant

VERSUS

1. The Business Manager,
Publication Division,
Government of India, 2nd Floor,
Commerce House,
Ballard Estate, Mumbai 400 038.
2. Secretary to the Govt. of India,
Ministry of Information & Broadcasting,
Mantralaya, New Delhi - 110 001.
3. Director,
Publication Division, Govt. of India,
Patiala House, New Delhi - 110 001.
4. Deputy Director (Admn.)
Publication Division,
Govt. of India, Patiala House,
New Delhi 110 001.

(By Advocate Shri P.M. Pradhan) - Respondents

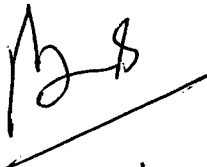
ORAL ORDER

Per Hon'ble Mr. B.N. Bahadur - Member (A) -

The issue in this case is in a short compass and therefore the case is being heard and disposed of at the admission stage with the consent of learned counsel on both sides. I have heard learned counsel for the applicant Shri R.R. Dalvi and learned counsel for the respondents Shri P.M. Pradhan.

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2. The fact is simple in that the applicant who was a Clerk Grade - II in the office of the respondents was promoted vide order dated 9.2.2000 (Exhibit - C) purely on ad-hoc basis for a time period ending 30.6.2000 as Junior Storekeeper in a higher pay scale of Rs.4000-6000. The applicant joined duties but later vide his application dated 8.11.2000 i.e. barely after 7 months or later asked for reversion on the ground that he does have experience on the Store side. The Respondents have accepted his plea for reversion and have reverted him and posted him to Patna. The applicant now comes up with the sole grievance that he has now been posted out of Bombay and that due to his own medical condition and family conditions he is finding this a great hardship. The learned counsel for the applicant Shri R.R.Dalvi arguing the case on merits on the lines of his written application highlighted the fact that the applicant is under constant treatment in a Government of India medical institution, and has been advised rest from time to time. Accordingly, his going out of Mumbai will cause him great hardship. He has also sought to argue on the letter at R/9, to the effect that posts are available and that it was wrong for the respondents of having him posted out of Mumbai in this context. The learned counsel for the Respondents Shri P.M.Pradhan, based his argument on Respondents' written statement and highlighted the fact that before posting to Patna, the applicant had been provided, through a letter in writing, the opportunity to state his options of



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posting. He further states that the post of Clerk Gráde-II is not vacant in Mumbai and therefore it is not possible to post the applicant here. It is also stressed that no reply was received on the communication of options sought.

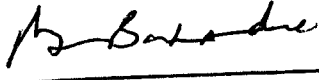
4. It is seen that this is a case of reversion being granted on request in the first place. On that there can be no dispute as this has been done on the basis of a request which is not being disputed. The problem now is that, on reversion, the applicant insists for a posting at Mumbai i.e. back to his original post. Whereas he may have genuine grounds of hardship, in going out of this city. It is to be remembered that anyone who joins a Government of India assignment faces the in-built prospect of transfer to any part in the country. This is undisputed. To that end the Tribunal has limits in providing him relief. I do not also find any ground of malice or illegality to provide relief or for a right for a Mumbai posting. The one point that was debated by the learned counsel on both sides is whether a vacancy exists here. The learned counsel for the respondents Shri Pradhan stated that there is no vacancy available now. Even resorting to the letter at Annexure-R-9 does not help the applicant's case as it is for the Government to decide which vacancy is to be filled in where. In fact it is stated at para (v) of Internal page 4 of the Respondents' Written Statement that there is no vacancy at all in this city.

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5. While there is no ground for me to interfere or to provide the relief sought, I would like to observe that there is no doubt that the applicant is functioning on the lower echelons of government service and would probably have to suffer hardship in case he is sent out. Therefore, without prejudice to the decision above, I would observe that the applicant, if he so chooses, make a representation to the Respondents, either asking for some other location (like Ahmedabad, which is stated to have a vacant post at present) or may even seek his re-upgradation if possible. The Respondents may consider such a request on the basis of administrative exigencies on merits and within rules. No directions are being given.

6. Subject to the above observations, this OA stands dismissed with no order as to costs.


(B.N. Bahadur)
Member (A)

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