

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 16/9/87

Application No. 752

7/86(F)

W.P. No

/

Applicant

Shri G. Narendra Nath

V/s The Secy, Dept of Electronics & 2 Ors

To

1. Shri G. Narendra Nath
Joint Director
Electronics Test & Development Centre(ETDC)
Ring Road, Peenya Industrial Estate
Bangalore - 560 058
2. Shri M.S. Bhagawath
Advocate
32, Mangala Nagar
Sankey Cross Road
Bangalore - 560 052
3. The Secretary
Department of Electronics
Lok Nayak Bhavan
New Delhi - 110 003
4. The Director General, STQC
Directorate, Department of
Electronics
Lok Nayak Bhavan
New Delhi - 110 003
5. The Director
Electronics Test & Development
Centre (ETDC)
Ring Road, Peenya Industrial
Estate
Bangalore - 560 058
6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 752/87(F)

Please find enclosed herewith the copy of the Order/XXXXXX
passed by this Tribunal in the above said Application on 4-9-87.

Encl : as above.

B.V. Venkatesh

Deputy Registrar

XXXXXX

(JUDICIAL)

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RECEIVED, (S) 17/9/87
Diary No. 1151.1 (P) 17/9/87
Date: 18/9/87

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17/9/87

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Recd. order copy

8/9/87

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 4TH DAY OF SEPTEMBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S.Puttaswamy, .. Vice-Chairman.

And:

Hon'ble Mr.P.Srinivasan, .. Member(A)

APPLICATION NUMBER 752 OF 1987.

G.Narendra Nath,
S/o late V.Gopalkrishna Rao,
Now Joint Director, ETDC,
Peenya, Bangalore-560 058. .. Applicant.

(By Sri M.S.Bhagawath, Advocate)

v.

1. Secretary,
Department of Electronics,
Lokanayak Bhavan,
New Delhi-110 003.
2. Director General, STQC,
Directorate, Department of Electronics,
Lokanayak Bhavan,
New Delhi-3.
3. Director, ETDC,
Peenya, Bangalore-560 058. .. Respondents.

(By Sri M.Vasudeva Rao, Advocate).

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This application coming on for hearing this day, Vice-Chairman made the following:

O R D E R

In this application made under Section 19 of the Administrative Tribunals Act, 1987, the applicant has challenged Office Order Part II/No.27 dated 27-8-1987 (Annexure-A1) of the Director, Electronics Test and Development Centre, Bangalore ('the Director').

2. The impugned order of the Director reads thus: -



OFFICE ORDER PART II/No.27.

27-8-1987.

As per Department of Electronics Order No.II(3)/87-PM-I dated 26-08-1987 Shri G.Narendra Nath, Sct/Eng'SE' ETDC-Bangalore is temporarily attached to ERTL (East) Calcutta for a period of six months (180 days) w.e.f. 15-09-1987 (FN) or until further orders whichever is earlier.

Shri G.Narendra Nath is entitled to draw the usual TA/DA Advance as admissible under normal rules for the period of stay on attachment with ERTL(E) Calcutta,

He will be relieved w.e.f. 11-9-1987 to enable him to join on 15-9-1987 at ERTL(E) and report to Director ERTL(E) Calcutta.

Sd/- S.Desikanani,
Director.

-- In this, the Director had alluded to Order No.II(3)/87-PM-I dated 26-03-1987 as authority for making his order. As the said order had not been produced by the applicant, we directed Shri M.Vasudeva Rao, learned Additional Central Government Standing Counsel to take notice for the respondents and produce that order for our perusal. Accordingly, Shri Rao has entered appearance for the respondents and has produced a copy of that order. That order on the basis of which the Director had made the impugned order, reads thus:

No.II(3)/87-PM-I
Government of India
Department of Electronics
Lok Nayak Bhavan
(Near Khan Market)
New Delhi, the 26th August, 1987.

The Director,
Electronics Test & Dev.Centre,
Peenya Industrial Estate,
Ring Road, Bangalore.

Sub: Attachment of Shri G.Narendra Nath, Scientist/Engineer Grade 'SE', ETDC, Bangalore to ERTL (East), Calcutta.

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Sir,

I am directed to convey the approval of the competent authority for attachment of Shri G.Narendra Nath, Scientist/Engineer Grade 'SE', ETDC, Bangalore to ERTL (East), Calcutta for a period of six months w.e.f. 15-9-1987 (FN) or until further orders, whichever is earlier, Shri Narendranath may be paid the usual T.A./D.A as admissible under the rules during this period of his attachment with the ERTL (East), Calcutta.

Yours faithfully,
Sd/- I.K.Rao,
Under Secretary to Government of India.



Before dictating this order, we have made available this order to Shri M.S.Bhagwat, learned counsel for the applicant, who had read the same carefully and then made his submissions on all questions.

3. What emerges from the two orders is that the effective order of transfer of the applicant had been made by Government of India on 26-8-1987 and that the same had only been implemented by the Director on 27-8-1987. We propose to examine the questions as if the applicant had challenged both of them.

4. On our earlier finding, it also follows that the principal contention of the applicant that the Director had no competence to transfer him from Bangalore to Calcutta falls to the ground. Shri Bhagwat, in our opinion, rightly did not pursue this ground also.

5. Shri Bhagwat contends that the orders of transfer which do not say that they were in the public interest were not in the public interest and therefore, illegal.

6. The fact that the order of Government or the consequential order made by the Director do not state that they had been made in the public interest does not necessarily mean that they were not made in the public interest or for administrative exigencies. We must construe the order made by Government as really made in the public interest or in the interests of administration. We see no merit in this contention of Shri Bhagwat and we reject the same.

7. Shri Bhagwat contends that since the applicant being in-charge of Vigilance had highlighted various irregularities committed by many officers of the organisation now being investigated by the Central Bureau of Investigation (CBI), it was not open to Government to transfer the applicant without the approval of the Chief Vigilance Commissioner of Government of India (CVC).



8. Shri Bhagwat has not placed any law or rule which compel the Government to take the approval or concurrence of the CVC to temporarily transfer the applicant from Bangalore to Calcutta. On this ground itself, this contention of the applicant is liable to be rejected. Even otherwise, the power to transfer is not restricted or controlled in any way by the CVC. For these reasons, we see no merit in this contention of Shri Bhagwat and we reject the same.

9. Shri Bhagwat next contends that the order had really the effect of protecting the guilty and punishing the applicant, who was totally innocent.

10. We are of view that Government had not made the order either to protect the guilty or punish the applicant. We see no merit in this contention of Shri Bhagwat and we reject the same.

11. Shri Bhagwat lastly contends that the transfer would affect the education of the children of the applicant who were studying in the City of Bangalore and the supervision of the construction of a new house at the city and on those grounds the same calls for our interference.

12. We are of the view that both the grounds, even if true, cannot be grounds for us to interfere with the transfer. We cannot examine them as if we are a Court of appeal and hold one way or the other also (vide: SHANTAKUMARI v. REGIONAL DEPUTY DIRECTOR, HEALTH SERVICES, PATNA DIVISION, PATNA AND OTHERS - AIR 1981 SC (L&S) 285).

13. We are also of the view that the ruling of the Principal Bench in CHARANJIT LAL v. UNION OF INDIA AND OTHERS (1987 (3) ATC 311) relied on by Shri Bhagwat is only a decision on the facts of that case and does not bear either on the last or the other contentions noticed by us earlier.



14. As all the contentions urged for the applicant fail, this application is liable to be rejected. We, therefore, reject this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

VICE-CHAIRMAN

4/8/83

Sd/-

MEMBER(A)

'True copy'

R.V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
(16/9)