

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 346/90.

Shri Babu Kacharu Gangurde. ... Applicant.

V/s.

Chief Engineer (C) Postal Govt.
of India,
New Delhi & Others. ... Respondents.

Coram: Hon'ble Vice-Chairman, Shri U.C.Srivastava,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Applicant by Mr.V.K.Pradhan.
Respondents by Mr.P.M.Pradhan.

JUDGMENT:-

(Per Shri U.C.Srivastava, Vice-Chairman) Dated: 2-5-1991

The applicant has challenged his Transfer Order from Bombay to Junagarh, Gujarat. He was appointed as Section Officer in 1972 at the P & T at Bombay and was transferred to Microwave Project in the year 1973 and came back again to Bombay in the year 1976. Since then he has been staying at Bombay till the impugned order of transfer was passed. The applicant stated that he has been working in various places in the Bombay City and was confirmed as Assistant Engineer in the year 1989. From the counter affidavit it appears that he was appointed as Assistant Engineer on ad hoc basis in the year 1978 and was made regular in the year 1989. His grievance is that Engineers who are working in Bombay for even 19 to 26 years have not been transferred, but he has been singled out for the purpose and he being a member of Schedule Caste community he has not been fairly dealt

with. According to him his transfer order is result of some mala fide in view of the fact that he had made a complaint against contractor who is in execution of work at Panvel, H.P.O. Building under his supervision on 12.3.1990 to the Executive Engineer with an endorsement to the other respondents, but no action was taken on the same but within two months thereof there has been transfer to a distant place like Junagarh. He has given the list of the Assistant Engineers who are staying in Bombay from 19 years to 26 years and are still at that place.

2. The transfer order was sent to the applicant by Post and was received at Bombay on 14th or 15th May, 1990. The Superintending Engineer, telegraphically instructed the Executive Engineer on 15.5.1990 to relieve the applicant immediately and although the order was not served upon him as he was on leave from 17th May, 1990 and _____ Assistant Engineer Civil, Sub-division, Dadar, Bombay assumed charge on 16.5.1990. The matter was taken though it was not taken in respect of certain other persons who are transferred, but were still continuing to stay at Bombay. He preferred a representation, but soon thereafter without waiting for the result he approached this Tribunal with this application. His grievance is that his wife is working in B.A.R.C. for the last 17 years and he being a patient of Asthma and diabetes requires food at home and care at Bombay where he is under treatment, yet he has been transferred disturbing him from the line. The counter

affidavit to the assertions made by the applicant has been controverted and it has been stated that there was no mala fide in his transfer order, it was a routine transfer order and not a result of any complaint made by the applicant against any contractor. As a matter of fact, the transfer order was passed at Delhi and not at Bombay. Regarding the 11 persons whose names have been given it has been stated that but for one Shri P.S.Valecha no one else is from the department of Post and the rest belong to the Department of Telecom, Civil Wing that all of them are in the same seniority list. It has been further stated that the other Assistant Engineer, Shri Kuttappan who completed his tenure at Bombay and also belongs to Schedule Caste Community and has been working under Civil Engineering Department of Post has also been transferred out of Bombay on 4.6.1990 and at least two candidates S/Shri A.K.Ram and K.K.Karji who were transferred along with the applicant belonged to the S.C. community. So far as the said P.S.Valecha is concerned he has also completed his tenure and has been transferred by the Chief Engineer, Postal, New Delhi by order dt. 5.6.1990 and discrimination whatsoever has been done in the case of applicant who had stayed for years together at Bombay and now in the routine course has been transferred and taking into consideration the difficulties he has been transferred to Junagarh which is the nearest place where he could be transferred as others have been transferred to a distant place.

3. Taking into consideration the facts of the case we do not find that any case of mala fide has been established. It is true that the applicant is a member of S.C. community and his wife is working with BARC which is a Public Undertaking, but it appears that it by itself will not be a ground for not transferring the applicant. Regarding the Government Order to which a reference has been made obviously it is the wife who is serving in ~~Public Sector Undertaking like~~ the BARC could have applied for transfer to another State, but however, it appears in the applicant's case it is not possible. The transfer orders are passed in exigencies of services and in the instant case it appears that same has also been done and we do not find any such ground at this stage to interfere with the transfer order. But in view of the difficulties pointed out by the applicant who states that there is an order by the Central Government regarding some liberal attitude for members of SC community in the matter of transfer and other personal difficulties pointed out by him, he can still approach the Central Government ~~in case~~. In case a representation is filed by the applicant before the appropriate authority within a period of two weeks from today pointing out his difficulties and that he has ~~not~~ complied with the transfer order in view of the fact that ~~the~~ interim order ~~so was~~ granted by the Tribunal in his favour and is staying at Junagarh and that itself has ~~been~~ adversely affected him.

and he has got certain other difficulties, there appears to be no reason why the appropriate authority or the Government will not consider his representation. Let a representation be filed within this period and the appropriate authority or the Government will consider the same within a period of four weeks, ^{thereafter} taking into consideration the difficulties and grievances of the applicant. In case the appropriate authority or the Government are of the view that now there is a break from Bombay and the difficulties of the applicant are genuine it will be for them to pass appropriate order in this behalf. With these observations and directions the application is otherwise dismissed. However, there will be no order as to costs.

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(M.Y. PRIOLKAR)
MEMBER (A)

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(U.C. SRIVASTAVA)
VICE-CHAIRMAN.