

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY.

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Stamp No.228/90 (OA 236/90)

Shri Bhalchandra Jani
S/o Ratilal Jani,
Director of Lighthouses &
Lightships, Ministry of Surface
Transport, Deep Bhavan, M.G. Road,
Ghatkopar (West), Bombay-400085 ... Applicant

V/s

1. Union of India through the
Secretary, Ministry of
Surface Transport,
Transport Bhavan,
New Delhi-110-001.
2. Director General,
Department of Lighthouses &
Lightships, Ministry of
Surface Transport, R.K.Puram,
New Delhi-110-066. ... Respondents.

Appearances:

Mr.G.K.Masand advocate
for the applicant.

Coram: Hon'ble Mr.M.Y.Priolkar, Member(A)

Hon'ble Mr.T.S.Oberoi, Member (J)

Dated: 10-4-1990

Tribunal's Order

(Per: Mr. M.Y.Priolkar, Member(A))

The applicant, who is working as Director of Lighthouses and Lightships, under the Ministry of Surface Transport at Bombay, has approached this Tribunal praying for directions that the order dated 3rd Nov.1989 (Exh. D) which is further reiterated by orders of 28th Nov.1989, 15th January 1990 and 26th Feb.1990 transferring him from Bombay to Port Blair, should be quashed and set aside on the grounds that the transfer ordered is contrary to the transfer policy enunciated by the respondents by order dated 24th Nov.1989, is discriminatory and also on account of mala-fides on the part of the present Lighthouses & Lightships, incumbent of the post of Director General/who is stated

to be instrumental in issuing this transfer order. (5)

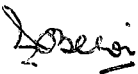
2. The applicant has explained at great length the serious personal difficulties to which he will be subjected if the transfer order is carried out at this stage. It is, however, well settled that the Tribunal cannot interfere in transfer matters purely on compassionate grounds. The guidelines or norms enunciated by Government for the guidance of its officers in the matter of regulating transfers in this case cannot also be considered to be very rigid or mandatory and will not vest any immunity from transferring the applicant. The only ground urged by the applicant, which prima facie carries some weight is allegation of mala-fides against the present incumbent of the post of the Director General who is the Head of the Department for the applicant.

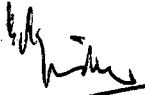
3. The applicant has also filed a copy of an appeal (Exh.M) he has submitted against his transfer to next higher authority, namely, Secretary, Ministry of Surface Transport, Government of India. This appeal is dated 19th March 1990 (Exh.M) which has been forwarded through the Director General, Lighthouses & Lightships, Ministry of Surface Transport, Govt. of India, New Delhi, under the applicant's Registered A.D. letter dated 19-3-1990.

4. In view of the fact that in paras V(j) and V(k) of the application, the applicant has made serious allegations against the present incumbent of the post of Director General, Lighthouses & Lightships, (Respondent No.2), namely, that he has an animus against the applicant due to the latter's complaint to the C.B.I. on the basis of which Respondent No.2 was interrogated by the C.B.I. and Case No. R.C 57/84 BOM has also been filed against Respondent No. 2 by C.B.I., we feel that in the interest of justice, the Secretary, Ministry of

Surface Transport to whom an appeal has already been submitted by the applicant through the Director General should take a decision on this case on merits within a reasonable time. We direct, accordingly, that the Secretary, Ministry of Surface Transport, Government of India may decide the appeal against his transfer submitted by the applicant through Director General, Department of Lighthouses & Lightships, Ministry of Surface Transport, R.K.Puram, New Delhi by his letter dated 19-3-1990, within a period of two months from the date of receipt of a copy of this ~~letter~~ ^{order} ^{by}. Respondents may, meanwhile consider keeping in abeyance ^{the} transfer order, if the applicant has not so far been relieved of his post, until the date of decision by the Secretary, Ministry of Surface Transport on the appeal submitted by the applicant.

5. This application is disposed of accordingly, with no order as to costs. Copies of the application may also be served on the respondents along with this order.


(T.S.Oberoi)
Member(J)


(M.Y.Priolkar)
Member(A)

6-4-90