

(S)

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 646/91  
XXXXXX

198

DATE OF DECISION 5.3.92

Shri Arullappan Theagarajan Petitioner

Shri A.D.Poojary Advocate for the Petitioner(s)

Versus

Secretary, M/o Defence &amp; Urs. Respondent

Shri R.K.Shetty Advocate for the Respondent(s)

## CORAM

The Hon'ble Ms. Usha Savara, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *No.*
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*U. Savara*  
5.3.92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

OA.NO. 646/91

Shri Arullappan Theogarajan ... Applicant  
V/S.

Secretary, Ministry of Defence  
New Delhi & Ors. ... Respondents

CORAM: Hon'ble Member (A) Ms.Usha Savara

Appearance

Shri A.D.Poojary  
Advocate  
for the Applicant

Shri R.K.Shetty  
Advocate  
for the Respondents

JUDGEMENT

Dated : 5.3.92

(PER: Usha Savara, Member (A)

This application is filed impugning the orders dated 18.4.1991 and 19.9.1991 transferring the applicant to Ahmedabad which is a Non-Tenure Station. The applicant who is working as Lower Division Clerk since 1977 in MES had given his willingness certificate to move to any of the stations listed in Tenure Station list as his name was appearing at Sr.No.96 of the warning list. However, the respondents have arbitrarily and with malafide intention posted him under surplus/defficiency policy to Ahmedabad. Mr.Poojary, the learned counsel appearing for the applicant submitted that the respondents have deviated from the accepted Tenure posting policy and have violated the transfer guidelines to Tenure Station and therefore his orders may be quashed and the Respondent No. 3 be directed to issue posting order for Tenure Stations during the Academic year. Shri R.K.Shetty vehemently contested the averments of the applicant. He submitted that the applicant has been serving in the MES and has an All India Service Liability. He has

been transferred in the exigencies of service and in public interest under the Rules and that therefore there are no malafides. Shri Shetty relied upon the decision of the Supreme Court of India, Civil Appeal No. 5418/1990, dated November 19, 1990- Mrs. Shilpi Bose and Ors. vs. State of Bihar & Others. The Hon'ble Supreme Court has held that a Govt. servant holding a transferable job has no vested right to remain at one place or the other. He is liable to transfer. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if an order is passed in violation of executive instructions, the courts ordinarily should not interfere with the order. He further submitted that the applicant's grievance is baseless since none of the LDCs had been posted to Tenure Station due to limited number of vacancies being available. However, as per the policy laid down, the volunteers have to be given priority over all others for being posted to Tenure Station. As there were more volunteers than vacancies, none of the LDCs were posted to Tenure Station from the service seniority list. Shri Shetty stated that there were no malafides and the application be dismissed.

2. After the arguments were concluded, the learned counsel for the applicant submitted that the applicant had already joined at Ahmedabad. He further submitted that the applicant would be satisfied if a direction is given to the respondents to consider the case of the applicant for Tenure posting as and when his turn comes according to the service seniority.

(8)

3. The learned counsel for the respondents have no objection to this prayer being granted. I, therefore, direct the respondents to consider the case of the applicant for Tenure posting as and when his turn comes according to the service seniority list, regardless of his station seniority in Ahmedabad where he has already joined in compliance with the transfer orders. The application is disposed of accordingly with no order as to costs.

*U. Savara*  
(MS. USHA SAVARA)

5.3.72  
MEMBER (A)