

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 640/91

Transfer Application No: ~~XXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION 7.6.93

Shri Shantaram Babaji More Petitioner

Shri V.M. Bendre Advocate for the Petitioners

Versus

Chief of Naval Staff Respondent
Sena Bhavan, New Delhi and others.

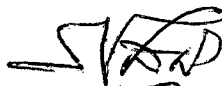
Shri V.S. Masurkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri V.D. DESHMUKH, MEMBER(J)

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
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 ?


(V.D. DESHMUKH)
MEMBER (J)

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has been added as respondent No.5. The said respondent No.5 has already been served, however he has not appeared and not filed any written reply.

Heard Shri Bendre for the applicant and Shri V.S.Masurkar for the respondents.

Annexure R1 to the sur-rejoinder of the respondents shows that as per the letter No. CS 6300 dated 28.2.89 / HQ/WNC , S.S.K. Project Cell was to be wound up and the Draftsmen working on the S.S.K. Cell were to be posted out in view of the winding up of the S.S.K. Cell. Similarly annexure R1 to the written statement of the respondents which is ^{in fact} ~~with~~ reference to the representations made by the applicant dated 15.10.91 shows that one vacancy of Chief Draftsman of S.S.K. Cell has already lapsed since 20 August '91 and due to this, one Chief Draftsman had to be posted out of Bombay. This letter states that in the above circumstances the applicant was transferred to NSRY (Cochin) with effect from 30.8.91.

The applicant challenges the transfer order interlia, on the ground that if the vacancy had arisen because of the winding up of the S.S.K. Cell it was the respondent No.5 who ought to have been transferred and not the applicant. It is well settled that this Tribunal cannot interfere in the transfer order unless it is shown that transfer order is malafide or contrary to the statutory rules. In the present case however there are certain circumstances which have to be taken into consideration. Admittedly the respondent No.5 is due to retire by superannuation with effect from 30.9.93. After the retirement of respondent No.5 obviously one post would be available at Bombay. The other matter which the Tribunal has to take into consideration is that

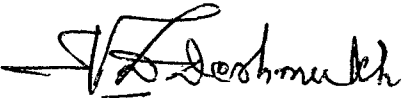
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although the transfer order/dated 31.7.91 and no interim relief was granted, no movement order has been issued till this date pursuant to the transfer order. In these circumstances it would be just and proper to dispose of the application with the directions that the case of the applicant may be re-considered by the respondents after the superannuation of the respondent No.5. As no movement order is issued till this date there is no reason why the applicant should not be permitted to continue in Bombay till 30.9.93. In this view of the matter the respondents are directed to consider the case of the applicant for cancellation of the transfer order after the respondent No.5, Shri C.V. Panchal retires. The impugned order dated 31.7.91 is deferred till 30.9.93.

The applicant shall be at liberty to approach this Tribunal if he has any grievance thereafter. The application is disposed of with the above directions with no order as to costs.


(V.D. DESHMUKH)
MEMBER (J)

NS