

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT PANAJI

Original Application No: 918/92

Transfer Application No: ---

DATE OF DECISION 9-2-1993

V.S.Velayudhan Pillai

Petitioner

Applicant in person

Advocate for the Petitioners

Versus

Union of India and ors.

Respondent

Mr.R.K.Shetty

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice-Chairman

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

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 ?

No

(S.K.DHAON)
VC

MD

NS/

Central Administrative Tribunal Bombay Bench,
Circuit sitting at Goa, Panaji,

No. G-corr- 647/93 /93-0A 918/92

Dated:

To,
1. Mr. V.S. Velayudhan Pillai
S/o Sonekara Pillai
187 type IV quarters, Bambolim, Panj

2. Secretary
Ministry of Defence, South Block New Delhi 110 011

2. Engineer in Chief
Army Head Quarters, Kashmir House, New Delhi 11

3. Major ASRC Reddy,
Garrison Engineer
Panji, Goa
4. S. Anantha Narayan,
Asstt. Engineer,
Office of Commander Works Engineers
Panji, Goa

sir,

The copy of the judgement dated 9.2.93, passed by
the Honourable Central Administrative Tribunal Bombay Bench
Circuit Sitting at Panaji (Goa) is enclosed herewith for further
necessary action.

D.A. as above.

retd
(S.A. Deshpande)
Court Officer
CAT Bombay Bench at Panaji.

Received one copy
✓ 10/2/93

Received on behalf of all
Respondents (Three copies)
verified

✓ JC-91733K
(Surf Major P. NAZIR AHMED)
OFFICE SURF
GARISON ENGINEER, PANJ

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT PANAJI

O.A.918/92

V.S.Velayudhan Pillai,
187, Type IV Qtrs.,
Bambolim,
Panji, Goa. .. Applicant

-versus-

1. Union of India
through
The Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.
2. Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
New Delhi.
3. Major ASRC Reddy,
Garrison Engineer,
Panaji,
Goa.
4. S.Anantha Narayan,
Asstt. Engineer,
Office of Commander
Works Engineers,
Panaji,
Goa. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon
Vice-Chairman.

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

Appearances:

1. Applicant in person.
2. Mr.R.K.Shetty
Counsel for the Respondents.

ORAL JUDGMENT: Date:9-2-1993
(Per S.K.Dhaon, Vice-Chairman)

By order dt. 23-4-1990 the applicant was transferred to Goa on promotion in an existing vacancy. By an order dt. 1-6-1992, which was served upon him on 18-6-1992, he was transferred to Jodhpur in the same capacity in an existing ~~xxx~~ vacancy. This order of transfer is being impugned in the present application.

2. A reply has been filed on behalf of respondents. The applicant who appears in person and Mr.R.K.Shetty who appears on behalf of respondents have been heard.

3. On 14-6-1992 the applicant submitted a representation to E-IN-C against the impugned order of transfer. That representation, it appears that, has not been considered on merits on the sole ground that it reached the authority concerned after the expiry of period of 45 days from the date of passing of the transfer order. In the reply filed, it is admitted that the applicant submitted his representation before the appropriate authority at Goa on 14-7-92. It is also not in dispute that the order of 1-6-1992 was served upon the applicant on 18-6-92. It is thus clear that the applicant's representation reached the local authority for being transmitted to the relevant competent authority well within the time. The representation, therefore, should have been considered on merits.

4. We have perused the contents of the representation. We find that the applicant's grievance was that since he was being transferred in the midst of academic session, the studies of his children were bound to suffer. In the representation he has given the details of children and also the details of education they were receiving in Goa. We have also find that the case of the applicant is that he is being

tossed about from places to places within a short span. These facts are stated in paragraph 4.1 of the application.

5. The applicant has produced before us a mass of medical evidence in the form of reports and also bills for hospitalisation and treatment. A perusal of these documents indicate that the applicant is a heart patient. However, Shri Shetty states that there is not even a whisper of any heart ailment in the representation dt. 14-7-92 submitted by the applicant. This is true. However, the possibility of the applicant being subjected to heart trouble subsequent to 14-7-1992 cannot be ruled out. The applicant, apparently, is under the treatment of some private Doctor. Admittedly there is no hospital attached to the Army in Goa. Therefore, it is apparent that the applicant has been taking treatment from ^a private Doctor which must be quite expensive.

6. We are aware of the legal position that normally a court should not interfere in the matter of transfer. Nonetheless, it has been ~~ordered~~ ^{observed} by the Supreme Court that in the matter of transfer the remedy of an aggrieved government servant is to approach the higher authority. In fact, the applicant did approach the higher authority by means of a representation which has not been disposed of on merits ~~but purely~~ ^{on account} on ~~extra~~staneous consideration which is untenable. We may repeat that the applicant had submitted his representation well within the time viz.

within 45 days from the date of receipt of the order of transfer. In view of the order we are about to pass, we do not consider it necessary to direct the relevant competent authority to consider and dispose of the representation of the applicant on merits.

7. Having considered the hardships the applicant is likely to suffer on account of his transfer in the midst of the academic session, we direct that the impugned order of transfer dt. 1-6-1992 shall be kept in abeyance till 30-4-1993. It follows that the applicant shall carry out the order of transfer thereafter. The applicant has made a grievance that he ~~is~~ not being paid his monthly salary etc. during all these months. Learned counsel for the respondents ~~xxxxx~~ points out that the applicant was struck off ~~xxxx~~ the rolls ~~xxxx~~ Goa on 25-8-92. It is stated by the departmental representatives that the applicant was paid his emoluments till 25-8-1992. Since we are directing that the order of transfer shall be kept in abeyance till 30-4-1993 some orders have to be passed with regard to the payment of emoluments to the applicant till 30-4-1993 by the authorities in Goa.

8. Shri Shetty has ~~been~~ made an offer that the authorities in Goa will forward the case of the applicant to the Medical College at Panaji for the medical examination of the applicant. He in fact suggests that the respondents will see that a medical board is constituted to

for thorough examination of the applicant. The respondents shall do so. If the Board finds that the applicant is really a heart patient, the respondents shall see to it that he is paid all the emoluments which would have been payable but for the order of transfer w.e.f.

26-8-1992 till 30-4-1993. Thereafter it will be open to the applicant to make an appropriate application for medical leave to the relevant authority at Jodhpur. We have no doubt that if such an application is made the authority at Jodhpur shall consider the request of the applicant sympathetically, and pass an order. The respondents shall forward the case of the applicant for medical examination to the Medical College at Panjim within a period of three days from today. They shall also request the authorities of the Medical College to give a priority to the case of the applicant and examine him as early as possible. We hope and trust that the Doctors at Medical College will act expeditiously and give their opinion as soon as possible keeping in view of the fact that payments of salary etc. are being held up.

9. With these directions the application is disposed of finally but without any order as to costs.

U. Savara
(USHA SAVARA)
Member(A)

S.K.D
(S.K.DHAON)
Vice-Chairman