

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 1072/92

199

TXAXXNO:

DATE OF DECISION 13.11.1992

Shri B.R.Bharwani

Petitioner

Shri G.K.Masand

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri J.G.Sawant

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Mr. 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 ?

*gym*  
(S.K.Dhaon)  
Vice Chairman

mbm\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

(3)

OA.NO. 1072/92

Shri Bhagwan Rughumal Bharwani ... Applicant

v/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Ms. Usha Savara

Appearance

Shri G.K.Masand  
Advocate  
for the Applicant

Shri J.G.Sawant  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 13.11.1992

(PER: S.K.Dhaon, Vice Chairman)

By the order dated 7.9.1992 passed by the C.P.O.(EL)  
whereby a certain posts along with the applicant have been  
transferred to Nagpur is being impugned in the present  
application.

2. A reply has been filed on behalf of the respondents.  
Counsel for the parties have been heard.
3. The impugned order recites : "One post of CTA in  
operation in CEE(C)'s office is transferred from CEE(C)'s  
Office Bombay to Nagpur under Dy.CEE(C) Nagpur in the interest  
of Administration. Consequent upon the said transfer of the  
post, the incumbent Shri B.R.Bharwani (the applicant), CTA/Foreman  
of CEE(C) Office Bombay V.T. is transferred and posted in the  
same grade and capacity as CTA under Dy.CEE(C) Nagpur against  
the transferred post. It is also provided therein that the  
post will stand retransferred to Headquarters on expiry of  
6 months period. It is further recited that the order has  
been passed with the approval of the competent authority."

4. Only one statement has been made in support of this application. It is argued that the impugned order has been passed by the Chief Personnel Officer (EL) (Respondent No.5) ~~either~~ at the instigation or at the behest of Smt. Rita Sahu, Dy. Chief Electrical Engineer (Respondent No. 4). It is admitted by the applicant that the Chief Personnel Officer is superior in authority to the Dy. Chief Electrical Engineer.

5. Learned counsel has drawn our attention to a number of documents to demonstrate that Respondent No. 4 Smt. Rita Sahu was not well disposed towards the applicant and she is biased against ~~him~~. Be that it may, the crucial question to be determined by us is whether any prima facie case has been made out for establishing a nexus between Smt. Rita Sahu and Chief Personnel Officer so far as the post along with the incumbent thereon is concerned. In the body of the application, there is not even a whisper that the Respondent No.5, Chief Personnel Officer could not pass the order upon the application of his own mind either in the instigation of or in the behest of Respondent No. 4. Something to that effect is stated in the grounds in ~~support~~ of the application. No one is expected to give a reply to the grounds. Therefore, for the purpose of present application, we have to proceed on the assumption that the material allegation is lacking in the application.

6. The reply filed on behalf of the respondents indicates that the Dy. Chief Electrical Engineer (Construction), Nagpur felt that there were 3 vacancies of Technical Staff under him and the same required to be filled up. He, therefore, requested for assistance from Headquarters, namely, Chief Electrical Engineer (Construction). Since filling up of the three vacancies were likely to take some time, it was decided by the competent authority to transfer one post of Chief Technical Assistant to Nagpur unit under Dy. Chief Electrical Engineer (Construction).

Consequently, the impugned order was passed. We see no reason as to why these averments should not be accepted. Learned counsel has vehemently urged that the fact that a copy of the impugned order was sent for information and necessary action to the respondents CEE(C) with the note that the same was being sent with reference to the note dated 3.9.1992. The conclusion irresistible is that the impugned order was passed pursuant to the said note dated 3.9.1992. It is also urged that the respondents should have filed a copy of the note dated 3.9.1992. We feel that such a presumption cannot be drawn. The occasion for filing a copy of the note dated 3.9.1992 along with the reply would have arisen if the applicant had made any allegation that some note was sent by the Respondent No. 4 to the Respondent No. 5 in connection with the transfer of the post along with the applicant. In the absence of any allegation, the respondents were not required to file a copy of the said note. No case has been made out for interference. The application is dismissed summarily.

*Usha Savarkar*  
(MS. USHA SAVARKAR) 12-92  
MEMBER (A)

*S.K. Dhaon*  
(S.K. DHAON)  
VICE CHAIRMAN

mrj.