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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 629/92

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DATE OF DECISION 13-08-1992

Jagat Singh

Petitioner

Mr. H D Parcholia &

Advocate for the Petitioner(s)

Mr. E K Thomas

Versus

Union of India

Respondent

Mr. V S Masurkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.

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?
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

MGIPRRND-12 CAT/86-3-12-86-15,000

6. Forward
13-8-92
M(A)

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING No.6
PREScot ROAD; Bombay-1

OA No. 629/92

Shri Jagat Singh
Engine Fitter SDK-II
Residing at Room No. 679/7
Astra Vihar; NAD Karanja
Uran; Raigad; Maharashtra ..Applicant

V/s.

Union of India
through Admiral Superintendent
Naval Dock Yard
Bombay 400023 ..Respondents

Coram: Hon. Ms. Usha Savara, Member (A)

Appearance:

Mr. H D Parcholia
Counsel for the
applicant

Mr. V S Masurkar
Counsel for the
respondents

ORAL JUDGMENT:
(PER: Ms. Usha Savara, Member (A))

DATED: 13.8.92

The applicant is presently working as Engine Fitter, Highly Skilled-II in Naval Dockyard at Bombay, ^{and} has filed this application with the prayer that the transfer order dated 12.5.92 (Annexure B) may be quashed and set aside as far as the applicant is concerned, and the respondents may be directed to enter the name of the applicant on the strength of Naval Dockyard, Bombay and he be permitted to join duty.

2. The applicant was appointed to the post of Engine Fitter, Highly Skilled-II, by the order dated 4.9.1991 after having undergone three years apprenticeship course at Naval Dock Yard, Bombay. By order dated 12.5.1992, twelve employees have been transferred from Bombay to Port Blair. It is submitted that the order is illegal and unjustified and unwarranted as the applicant is in a substantive post on a permanent basis against a regular vacancy. It was ~~not~~ ^{is} the applicant's case that this order is a termination of service without following the procedure of law. It is submitted by the learned counsel ~~of~~ the applicant that as per the appointment order the applicant could be transferred in any of the Naval establishments under the administrative control of Admiral Superintendent, Naval Dock Yard, Bombay, but the posting of the applicant to Port Blair is violation of this provision. It is further submitted that the Admiral Superintendent, Naval Dockyard, Bombay does not have any administrative control of the employees working in Port Blair, as Port Blair comes under Eastern ^{Naval} Command whereas Bombay comes under Western Naval Command and, therefore,

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the applicant could not have been transferred to Port Blair. The applicant has also alleged maleficent intentions in so far as the respondents wanted to create a vacancy in Bombay and to appoint some one else in his place. It is also the applicant's case that he has been on sick leave since 15.5.92 and is still under treatment. Further he has stated that his mother at Uran is sick and is taking treatment at St. George Hospital and there is no one to look after her. In these circumstances the transfer order should be cancelled.

3. Mr. Masurkar, appeared for the respondents and filed his reply. It was submitted by him that the applicant was an ex-apprentice recruited by a special recruitment board, Port Blair, for their own vacancies. He was sent to Naval Dockyard apprenticeship training along with the candidates selected at Port Blair. After completion of training all the candidates were given opportunity in the Naval Dockyard. He admitted that the appointment order of the applicant states in para 4 that the applicant is liable to be posted in any of the Naval Establishments under the administrative control of the Admiral Superintendent, Naval Dockyard, Bombay. However, this was an over sight as the persons were recruited specifically against vacancies in Port Blair. Hence the individual was sponsored by the said recruitment board in Port Blair, and the appointment order should have been issued

by the administrative authorities in Port Blair.

It is pointed out by the learned counsel for the respondents that para 4 of the apprenticeship contract executed between the Government and the applicant, which is signed by the applicant, states that he is liable to transfer in any Naval repair organisations in India. A copy of this has been annexed along with the written submissions. He denies the charge of mala fide or wilfulness or illegality in the transfer order and submits further that all the other persons trained with the applicant have already reported to the new unit. The applicant has deliberately remained absent on sick leave to evade joining the new place. In the circumstances he prays that the application be dismissed.

4. Since a short point is involved, the application is being disposed off at the admission stage itself. From a perusal of the original documents as well as the contract of the applicant it is clear that the applicant is liable to be posted in any naval repair organisations in India. Since he is having an All India service liability, his claim to be retained in Bombay or even the Western Naval Command cannot be entertained. Though the applicant has alleged mala fide, it is a vague, unspecified allegation and cannot be sustained. The transfer does not adversely alter his service condition in terms of rank, pay or emoluments nor ^{any}.

does it infringe any guidelines. In the
circumstances I see no reason ~~to interfere~~^{w.}
with the transfer order and the application
is dismissed without any order as to costs.

U. Savara
(2.8.92.)
(Ms. USHA SAVARA)
Member (A)

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