

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 748/92

Transfer Application No:

DATE OF DECISION 27.10.92

M.G.GHANEKAR

Petitioner

A.D.POOJARI

Advocate for the Petitioners

Versus

~~Secretary, Min. of Science and Technology,~~
Meteorological dept, New Delhi and ors.

Respondent

SHR R.K.SHETTY,

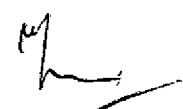
Advocate for the Respondent(s)

CORAM:

The Hon'ble MR. M.Y. PRIOJKAR, MEMBER (A)

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 ?
- Yes
No


(M.Y. PRIOJKAR)
M/A

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(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO: 748/92

MR.M.G.GHANEKAR,
Scientific Asstt.
of Addl. Director General of Meteorology,
Pune - 411005

... Applicant

V/s

Secretary
Ministry of Science and Technology,
Meteorological department
New Delhi and ors.

... Respondents

CORAM : HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Shri A.D.Poojari, Adv.
for the applicant

Shri R.K.Shetty, Adv.
for the respondents.

ORAL JUDGEMENT

DATED : 27.10.1992

(PER : M.Y.PRIOLKAR, M/A)

This is an application filed by the applicant , a Scientific Assistant of Meteorological Department against transfer order dated 6th May 1992 transferring him from Pune to Dantiwada (Gujarat). The transfer order is assailed on the ground of malafides inasmuch as the transfer policy norms are stated to have not been observed by the respondents. It is alleged that the norm of transfer followed by all the Central Government Offices is that the senior most individual is selected for posting on transfer, if required on exigency of service or job requirement basis. The applicant states that there are 14 seniors to him working in the Pune office and some have completed 20 years at Pune, whereas the applicant has completed only 15 years of service at Pune, and still he has been transferred out now, while his seniors are left undisturbed.

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Other grounds taken by the applicant are that his children are studying in Marathi Medium school and the transfer at this stage will adversely affect the childrens' education, the applicant is a heart patient and his mother is suffering from cancer, and that the person in whose place he is being transferred is a senior observer and should have been replaced only by a senior observer and not a Scientific assistant like the applicant.

2. The respondents have annexed to their written reply a copy of the instructions regarding transfer of Non-gazetted Staff in the India Meteorological Department. Rule 7 thereof stipulates that subject to suitability of the persons concerned and requirements of work, the persons having a longer period of stay at the station should ordinarily be transferred in preference to others having shorter periods of stay, provided further that employees in the age group 40 years will be selected first. The next choice will be made from among employees in the age group of 40-50 years, and in the event of no suitable person in the above groups being available or exigencies of service, persons in the age group 50-53 years will be also considered for transfer.

3. Admittedly, although described loosely as a rule, Rule 7 referred to above is merely one of the guidelines laid down in administrative instructions to be followed for transferring the non-gazetted staff. This is clear from the subject mentioned in the annexures at pages 14 and 15 of the respondent's reply. These are stated to be principles which "will guide decisions regarding transfer of non-gazetted staff in the India Meteorological Department". It is now well settled that guidelines for

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transfer of staff are only directory and not mandatory. In the case of MRS. SHILPI BOSE AND OTHERS V. STATE OF BIHAR AND ORS. AIR 1991 SC 532, the HON'BLE SUPREME COURT has observed as under :

"the Courts should not interfere with transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal right. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead affected party should approach the higher authorities in the Department".

4. It is not in dispute that the applicant holds a transferable post and has been serving at Pune for the last 15 years or so. Evidently, the transfer order does not violate any statutory rules. Though malafides have been alleged, there is no evidence to substantiate the allegation of malafides except that the applicant has been picked up for the transfer, although a number of other employees were available who are senior to the applicant. The learned counsel for the respondents stated that the place of posting viz. Dantiwada, is a secluded place in a remote area of Gujarat and, therefore, in the opinion of the Head of Department, female employee who are senior to the applicant were not considered suitable for being transferred to this place.

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The contention of malafides, therefore, is rejected. It is also well settled that this Tribunal will not interfere in the transfer matters merely on compassionate grounds like the applicant's health problems or of his children's education. The Departmental authorities are also in the best position to decide whether only a senior observer should be posted at Dantiwada or a Scientific assistant can also meet the job requirements.

5. In view of the above I do not consider this to be a fit case for interference by this Tribunal. The application is accordingly rejected. There will be no order as to costs.


(M.Y. PRIOLKAR)
M/A

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