

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: 15 NOV 1994

APPLICATION NO: 1186 of 1994

APPLICANTS:- Shri P. Shivashanker &
V/S.

RESPONDENTS:- Seey, 1/o Defence & 2 o/s

To

1. Shri M.S. Anandaram
Advocate,
Chandrashekhar Complex
Gandhinagar
Bangalore - 560009
2. Shri M.V. Rao
Adv. C.G. S.C.
High Court Bldg
Bangalore - 1

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER/~~ passed by this Tribunal in the above
mentioned application(s) on 27th October 1994

Issued on

16/11/94

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of for

DEPUTY REGISTRAR
JUDICIAL BRANCH

Shivashanker
16/11/94

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

ORIGINAL APPLICATION NUMBER 1186 OF 1994

THURSDAY, THIS THE 27TH DAY OF OCTOBER, 1994.

Mr. Justice P.K. Shyamsundar, ... Vice-Chairman.

Mr. T.V. Ramanan, ... Member(A)

P. Shivashankar,
S/o late Bheemappa,
Now Aged about 35 years,
working at Driver Grade-2,
Office of the Assistant Garrison
Engineer, Bidar and residing at
No.27/3, MES Quarters, CRS Area,
Bidar. ... Applicant.

(By Advocate Shri M.S. Anandaramu)

v.

1. The Union of India,
represented by its Secretary,
Ministry of Defence,
New Delhi.
2. The Chief Engineer,
Dakshin Kaman Mukhayalaya
Abhiyantha Shakha,
Headquarters Southern Command,
Engineers Branch, Pune 411 001.
3. The Assistant Garrison Engineer (I),
Bidar-585 401. ... Respondents.

(By Standing Counsel Shri M. Vasudeva Rao)

O R D E R

Mr. Justice P.K. Shyamsundar, Vice-Chairman:-

Having heard both sides at the stage of admission, we propose to dispose off this application finally. The applicant wants his retention at Bidar and therefore, contends against the order transferring him from Bidar to Bangalore in the capacity of MT Driver Grade-II. He belongs to the Military Engineer-



ing Establishment and was quite happy in the position he was serving at Bidar. He has now been uprooted and posted out of Bidar to Bangalore and is, therefore, seriously aggrieved. He contends that his children are schooling at Bidar and that his transfer is not in public interest and that at any rate it is not convenient because it happened to be the middle of the academic year. But, then the learned Standing Counsel submits that the order of transfer was made in January, 1994 but even so it was given effect to in July, 1994.

2. We are told by the Military Engineering Establishment, the opponent in this application that the applicant had to be necessarily dislodged from Bidar and sent to Bangalore because the establishment functioning at Bidar suffered a reduction in staff strength, the result being some adjustment had to be done out of the existing cadre working in the establishment at Bidar which has subsequently suffered a depletion in strength. In that situation probably nobody can be faulted in shifting the applicant out of Bidar and on to Bangalore where a position is available. But, the applicant insists on being located in Bidar itself.

3. We are told that the Bidar office has both basic and non-basic establishments and that the applicant was serving in the basic establishment. If there was a vacancy in the non-basic establishment, although there may not be such vacancy in the basic establishment, the applicant can be fixed up in the non-basic establishment. But, the learned Standing Counsel tell us that even in the non-basic establishment there are no vacancies because that establishment also suffered clipping of staff strength.

4. Be that as it may, while expressing reluctance in interfering with this matter, we may point out that the authority can certainly make appropriate use of its own staff and deploy them wherever it is considered necessary. This aspect becomes very obvious when the strength of the establishment itself is cut down and therefore it becomes necessary to relocate some of the existing staff and in that process if a person is uprooted from the place he was serving and shifted to another place that is hardly a grievance for us to interfere with the impugned order of transfer. This aspect is no longer res intergra and is actually covered by the decision of the Supreme Court in STATE BANK OF INDIA AND OTHERS v. D.C.AGGARWAL AND ANOTHER (AIR 1993 SC 1197). In that view of the matter we think it is most inappropriate to interfere and quash the impugned order of transfer. However, we would like to tell the military establishment that inspite of all this, if a position is available in non-basic establishment, they may consider his case for fitting him in that vacancy, if possible. The ascertainment of the vacancy and possibility of fitting the applicant in that post should all be done within a period of one month from this day.

5. In the result, this application fails, the impugned order of transfer shall become current and can be given effect.



MEMBER(A)

TRUE COPY

Copy 11/11/84
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd/-

Sd/-

VICE-CHAIRMAN.