

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1176/93

26-10-99
Date of Decision:

M.N. Vanesa

Applicant.

Shri S.P. Kulkarni

Advocate for
Applicant.

Versus

Secretary, Administration of Moti Daman & Ors.
Respondent(s)

Shri R.R. Shetty

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. D.S. Bawej, Member (A)

Hon'ble Shri. S.L. Jain, Member (J)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library

D.S. Bawej
(D.S. BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 1176/93

Dated this the 26th day of October 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Mahadev Narsinhbhai Vanesa,
R/o.16/188, Vishram Apt.,
Opp. Bhavsar Hostel, New Vadaj,
Ahmedabad-380 013. Applicant

By Advocate Shri S.P.Kulkarni

V/S.

1. The Secretary (Education) & Development Commissioner, Administration of Daman & Diu & DNH, Administrator's Secretariat, Moti Daman.
2. The Collector, The Collectorate Diu, Administration of Daman & Diu.
3. H.E. The Administrator, Administration of Daman & Diu & DNH, Administrator's Secretariate, Moti Daman.
4. B.B.Makwana, Education Officer, Education Office, The Collectorate, Diu. Respondents

By Advocate Shri R.R.Shetty

O R D E R

{Per : Shri D.S.Baweja, Member (A)}

Heard Shri S.P.Kulkarni and Shri R.R.Shetty, the learned counsel for the applicant and respondents respectively.

2. The applicant has filed this application seeking several reliefs which are not flowing from each other and thus plural in nature. The counsel for the applicant at the time of hearing made a statement at the Bar that he does not press for any of the reliefs other than the relief at 8 (a). In view of this submission, the averments made in the OA. have been considered only for the relief prayed for at 8 (a).

3. Both the applicant and the respondent No. 4 are posted as Headmaster in Diu. As per the impugned order dated 7.9.1993, the respondent No. 4 Shri B.B.Makwana is posted as Head Master Govt. High School (Girls) Diu and also asked to work as Education Officer, Diu. In this order, it is also stipulated that Respondent No. 4 will continue to draw his pay against the post of the Head Master. As per the order dated 29.9.1993, the applicant who was working as Head Master Govt. High School (Girls), Diu was posted as Head Master, Govt. High School Buchawada and also asked to look after the work of Middle School.

The applicant also submits that there is no post of Education Officer, Diu and the Respondent No. 4 has been asked to look after the work of the post which is non existing. The main grievance of the applicant is that Respondent No. 4 has been asked to look after the work of Education Officer carrying higher administrative responsibilities than that of Headmaster ignoring the seniority of the applicant. The willingness of seniors including the applicant had not been asked before issue of the impugned order for Respondent No. 4. Feeling aggrieved, the

present OA. has been filed on 25.10.1993 seeking the relief of setting aside the selection, posting of the Respondent No. 4 as Education officer, Diu.

4. Respondents have opposed the application through the written statement. The respondents submit that there was earlier a post of Education Officer, Diu in the erstwhile U.T. of Goa, Daman & Diu which had been surrendered sometime in 1972-73. Since then the administrative work of the Education Department was being looked after by the Assistant District Education Inspector under the control of Assistant Director of Education, Daman. However, due to increase in work load, it was becoming impossible for the Assistant District Education Inspector to manage the administrative work of the Education Department in addition to his legitimate duties. Therefore, it was considered necessary to allocate the administrative as well as academic work to one of the Headmasters which carries the same pay scale of Rs.2000-3500 as that of Education Officer. Keeping this objective in view, Shri Makwana has been directed to look after the duties of Education Department at Diu in addition to his duties as Headmaster with no additional pay. It is further stated that there is no post of Education Officer and Shri Makwana as per the impugned order was only asked to look after the duties of the Education officer and inadvertently it was indicated in the order that Shri Makwana is posted as Education Officer. Since the arrangement made is only looking after without any additional pay, the applicant does not have any cause of grievance and therefore OA. deserves to be dismissed.

5. The applicant has not filed any rejoinder reply for the written statement.

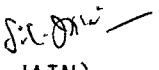
6. The Respondent No. 4 has not filed any reply. He has also not appeared either in person or through any counsel.

7. The applicant has filed the present OA. when he was posted as Headmaster in Diu. The counsel for the respondents during the hearing brought out that the applicant has been since transferred to Daman on his own request. From the facts brought on the record, the matter under challenge in the OA. is with regard to the impugned order as per which the Respondent No. 4 who is also working as Headmaster has been directed to look after the duties of Education Officer, Diu. The respondents contend that this is a local arrangement in the absence of the post of Education Officer. This has not been denied by the applicant. In view of this, the applicant's grievance after transfer to Daman survives only if he is willing to be posted back to Diu. In view of the changed situation, the counsel of the applicant was asked whether he is willing to be posted at Diu in case his claim is allowed. The counsel for the applicant conceded that applicant will not like to go back to Diu.

8. It is admitted fact that there is no post of Education Officer for Diu. The Respondent No. 4 has been asked to look after the duties of Education Officer in addition to his own duties as a Headmaster as it was felt by the Administration that

the Assistant District Education Inspector was not able to cope with additional administrative and academic work of the Education Department. Respondent No. 4 is also not entitled for any additional pay for this arrangement. The applicant's case is that he is senior to the Respondent No. 4 and therefore he should have been considered for the same. We find merit in this contention. But in view of the changed situation as brought out in para 7 above, we do not consider that grievance of the applicant now survives. The arrangement of looking after the duties of the Education Officer as per impugned order does not entail ~~in the~~ ^{any} loss of seniority of the applicant or any additional pay. Further, from the averments of the applicant, it is noted that the applicant is not the senior most and several Headmasters are above him who would have to be considered first if any direction is given to the respondents to consider the persons as per the seniority for the local arrangement made as per the impugned order.

9. In the light of the above considerations, we do not find any merit in the OA. and the same is dismissed accordingly with no order as to costs.


(S.L.JAIN)

MEMBER (J)


(D.S.BAWEJA)

MEMBER (A)

mrj.