

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 585/93

Transfer Application No: --

DATE OF DECISION: 27-7-94

Smt.Anju Dasgupta Petitioner

Mr.B.Dattamurthy Advocate for the Petitioners

Versus

U.O.I. & Ors. Respondent

Mr.P.M.Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, V.C.

The Hon'ble Shri --

1. To be referred to the Reporter or not ? M
2. Whether it needs to be circulated to other Benches of the Tribunal ? M


(M.S.DESHPANDE)
VC

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.585/93

Smt. Anju Dasgupta .. Applicant

-versus-

Union of India & Ors. .. Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande,
Vice-Chairman

Appearances:

1. B.Dattamurthy
Counsel for the
Applicant.
2. P.M.Pradhan
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 27-7-94
(Per M.S.Deshpande, V.C.)

By this application the applicant challenges the order dated 11/15-6-92 by which the applicant's request for absence from 16-3-91 to 28-5-91 to be treated as Compulsory Wait and ~~for a direction to the respondents~~ to treat this period of absence as duty was not granted. The applicant who was appointed as Director of Postal Service on 15-5-89 in Bombay City proceeded on leave for forty days from 24-12-90 for going abroad. She extended her leave by six weeks on medical grounds and during that period one Mr. Khanna came to be posted as Director of Postal Services. The applicant who returned to India on 6-3-91 sought a posting at Bombay. She was not given a posting until 27-5-91 when an order was passed ~~transferring~~ Mr. Khanna as Director, Bombay G.P.C. and posted ¹¹⁹ the applicant vice Shri Khanna. The applicant's

grievance is that she had been corresponding with the authorities concerned including the Minister for getting a posting at Bombay but no posting was granted to her at Bombay.

By letter dated 11/15-6-1992(Annexure-1) the applicant was informed by the Asstt.Director General(SGP) that the matter had been reconsidered and the period of applicant's absence from 16-3-91 to 28-5-91 could not be treated as Compulsory Wait and that the applicant should avail leave due and admissible.

2. The respondents contention is that the applicant could not be given a posting at Bombay on her return from USA as there was no post available for her. She was given the post on 27-5-91 by moving Mr.Khanna to another post and since the applicant was not willing to join any other post except at Bombay her period of absence could not be treated as Compulsory wait.

3. The only question ^{which} arises for consideration is whether the period of absence from 16-3-91 to 28-5-91 should have been treated as Compulsory Wait by the respondents. I was taken ^{through} to the entire correspondence between the parties and other authorities but it is apparent that no order of posting was given to the applicant upto 27-5-91. The order dated 8-2-91 shows that V.K.Khanna was posted as DPS Bombay City Region vice the applicant.

The letter dated 4-2-91 shows that the applicant's husband who was Secretary, Finance Department, Govt. of Maharashtra wrote to the Secretary, Department of Post, New Delhi stating that while it was entirely for the Government of India to decide whether such an arrangement should be made against leave vacancy, he was requesting that the applicant should be reposted against any post in Bombay when she returns from her extended leave as he was posted as Secretary to the Govt. of Maharashtra and even according to Govt. of India guidelines his wife ought to have been posted at Bombay as she had barely completed 1½ years service and was not due for a change of station. It appears that the Chief Secretary of the Govt. of Maharashtra also wrote a letter on 4-2-91 to which the Secretary, Department of Post replied on 7-3-91 stating that maximum consideration had been shown to the applicant in giving her a posting and asking the Chief Secretary to give a posting to the applicant's husband at Aurangabad where the applicant could also be posted.

4. On 15-3-91 the applicant wrote to Minister of State for Communications complaining that after return from leave when she was due/rejoin duty she had been asked to proceed on posting to some place other than Bombay and since her husband was posted as Secretary(Finance), Govt. of Maharashtra she should be allowed to rejoin at Bombay. All these letters notwithstanding,

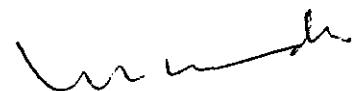
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no posting was given to the applicant at Bombay, immediately after her return to India when she made it known that she was ready for getting the posting. It is surprising that time ~~has been~~ ^{was being} spent in this idle correspondence by such highly placed authorities, when it would have been appropriate for them to grant immediate posting to the applicant. She could have been posted to some other place if a posting could not be given to her at Bombay. She had not applied for any further extension of leave and it was expected that the departmental authorities should have ~~six~~ promptly given her a posting. The question whether ^{she} should be brought back to Bombay or not could have been considered later. Obviously the applicant would have exposed herself to disciplinary action had she not joined at the place of posting which was given to her. Obviously it was the lapse on the part of the Postal authorities which resulted in the applicant being deprived of a posting. The period upto 27-5-91 therefore be treated as Compulsory Wait. The applicant had in her representation dated 13-8-91 clearly stated that she had spoken to Director(Staff) on telephone and had also addressed a letter to him informing Directorate of the position and also requesting that her case be considered for grant of compulsory waiting. Clearly the plea that is being raised by the applicant was not an afterthought and the order passed at Annexure-1 dated 11/15-6-92

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cannot be supported.

5. The application is therefore allowed. The impugned order dated 11/15-6-92 is quashed and the respondents are directed to treat the period from 16-3-91 to 28-5-91 as compulsory wait and pay to the applicant all the pay and allowances to which she would have been entitled had she been granted posting, within three months from the date of ^{receipt of} a copy of this order. O.A. disposed of accordingly.


(M.S.DESHPANDE)
Vice-Chairman

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