

*Duplicate*

*Dr D*

*Jan*

*Op. in O.A*

*1302/95*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY: 1

Original Application No. 1302/95 and 1303/95

Wednesday the 9th day of October 1996

CORAM: Hon'ble Shri P.P. Srivastava, Member(A)

Sadashiv Shivram More  
Sepoy at Dapoli Division  
Commissioner of Pune

... Applicant  
(O.A. 1302/95)

Krishna Laxman Alwe  
Sepoy at Harnai Port,  
Dapoli Division,  
Commissioner of Pune.

... Applicant  
(O.A. 1303/95)

V/s.

The Union of India through  
the Secretary,  
Ministry of Finance  
Department of Revenue,  
New Delhi.

The Additional Commissioner  
(P. & V) Central Excise &  
Customs, Pune.

The Assistant Commissioner  
(Customs Division)  
Dapoli, , Dist - Ratnagiri.

... Respondents.

By Advocate Shri Suresh Kumar  
Standing Counsel Shri M.I. Sethna.

ORDER (ORAL)

¶ Per Shri P.P. Srivastava, Member(A) ¶

O.A. 1302/95 and O.A. 1303/95 are being disposed of by a common order as the two applicants have been transferred by the common impugned order. Shri More has been transferred to Walchandnagar from Dapoli. Shri Alwe has been transferred to Sangli from Dapoli. There is no information from the learned counsel for the applicant why he is not attending the Court today.

1.2.1.7

Therefore these matters have been heard in the absence of the counsel for the applicant.

2. The main ground of the applicants for challenging the transfer order is that they have been transferred frequently and the transfer order is vindictive and malafide. However no details have been given to establish either malafied or vindictiveness. However the applicants have submitted that the transfer order was not in public interest.

3. The learned counsel for the respondents has argued that the applicants have been transferred in terms of powers vested in the Administration, in terms of para 126 (Exhibit -2) Office Procedure Manual, which permits the transfer of an employee. The Competent Authority's sanction has been obtained which has been placed at Exhibit 3.

4. It is now well established by series of judgements from the Apex Court that the Tribunal would not normally interfere with the Transfer order unless it is against the statutory provision or with any malafide intentions. The applicant has not brought out sufficient material to prove either malafied intentions or violation of statutory provisions.

5. In the facts and circumstances of these cases I am of the view that these are not the cases where the Tribunal should interfere with the transfer order. The O.As are dismissed as having no merits. No order as to costs.

(P.P. Srivastava)  
Member (A)

NS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

R.P.NO. 102/96 in OA.NO. 1302/95  
and R.P.NO. 101/96 in OA.NO. 1303/95

Provisioned this the 17<sup>th</sup> day of January 1997

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

S.S.More

By Advocate Shri D.V.Gangal ... Applicant  
V/S.

Union of India & Ors.

By Advocate Shri Suresh Kumar  
for Shri M.I.Sethna, C.G.S.C. ... Respondents  
(OA.NO.1302/95)

K.L.Alwe

By Advocate Shri D.V.Gangal ... Applicant  
V/S.

Union of India & Ors.

By Advocate Shri Suresh Kumar  
for Shri M.I.Sethna, C.G.S.C. ... Respondents  
(OA.NO. 1303/95)

Tribunal's Order

A common judgement was rendered in the two OAs. and the two R.Ps. are against the common judgement dated 9.10.1996. The applicants have made a point in the R.P. that the OA. was decided without hearing the applicants' counsel as the applicants' counsel was not present and therefore the judgement requires review. The notice was issued to both the parties and counsel for both the parties <sup>were heard</sup>. The only point made in the R.P. is that the applicant could not be transferred in the mid of school session and

that the grievance of the applicant as brought out in the OA, has not been considered leading to the error of law on the face of it.

2. The Learned Counsel for the respondents on the other hand has argued that the order of the Tribunal was passed <sup>after</sup> <sub>consideration</sub> of all facts <sup>and</sup> that there is no error in the judgement and the Tribunal has considered all the aspects and has given the judgement in terms of the various judgements of the Hon'ble Supreme Court in the case of transfer matter.

3. After hearing both the parties, I am of the view that the counsel for the applicant has not brought out any new facts or any error on the record in the judgement. In Para 4 of the judgement it has been mentioned that :-

"4. It is now well established by series of judgements from the Apex Court that the Tribunal would not normally interfere with the Transfer order unless it is against the statutory provision or with any malafide intentions. The applicant has not brought out sufficient material to prove either malafide intentions or violation of statutory provisions."

In view of this, I see no ground to review the judgement. The Review Petitions are therefore dismissed.

Certified True Copy  
Date .....

18.11.97  
order/Judgement despatched  
to Applicant/Respondent (s)  
on 29.1.97

Section Officer  
Central Admn. Tribunal  
Bench Bench

(P.P. SRIVASTAVA)  
MEMBER (A)

20/1/97