

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 184/97

Date of Decision: 6.1.1999

Shri Pravin Ramchandra Ninave Applicant.

Applicant in person. Advocate for  
Applicant.

## Versus

Union of India and others. Respondent(s)

Shri V.G.Rege.  
Advocate for  
Respondent(s)

**CORAM:**

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

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*

*Rajendra*  
(R.G. Vaidyanatha)  
Vice Chairman

NS

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

Original Application No.184/97

Wednesday the 6th day of January 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Pravin Ramchandra Ninave  
Residing at  
A/2, Shivaji Colony  
C/o Shri Kadam,  
Room No.2, Kalyan East  
Tisgaon, Tal. Kalyan(E)  
District Thane.

... Applicant,

Applicant in person.

V/s.

Union of India through  
Director, Central Institute  
for Cotton Research  
P.O. Box 225, Nagpur.

Director General & Secretary  
Indian Council of Agricultural  
Research, Krishi Bhawan,  
New Delhi.

Director,  
Central Institute of Fisheries  
Education (Indian Council  
of Agricultural Research)  
(I.C.A.R.) Kakri Camp,  
J.P. Road, Versova,  
Mumbai.

... Respondents.

By Advocate Shri V.G. Rege.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an application filed by the applicant seeking a direction to the respondents to transfer him from Central Institute of Fisheries Education, Versova, Bombay to Central Institute for Cotton Research, Nagpur. The applicant has given number of reasons as to why he wants a transfer to Nagpur. When he made representation to the respondents for transfer from Bombay to Nagpur, the respondents rejected the request only on one ground that there is no vacancy of Junior Stenographer in Nagpur. The applicant

has alleged that there are two vacancies of Junior Stenographer and he can be accommodated. He therefore wants a direction to the respondents to transfer him from Bombay to Nagpur.

2. The respondents have filed reply opposing the application. The respondents have taken number of grounds to say that the applicant is not entitled for transfer from Bombay to Nagpur, particularly when the two Institutes are different. Among other grounds, the respondents have also alleged that there are no vacancies of Junior Stenographer at Nagpur. Since the matter is under correspondence for up-gradation of the two posts of Stenographer grade III to Grade II.

3. The applicant who appeared in person argued that there are two vacancies of Stenographer Grade III at Nagpur and he can be accommodated there. The learned counsel for the respondents while arguing that the applicant has no such legal right and it is for the Administration to decide whether the applicant should be transferred or not and the willingness of the concerned Director at Nagpur. He further submits that now there are no vacancies of Stenographer Grade III and the question of considering the request of the applicant for transfer to Nagpur will not arise.

4. Though there are number of grounds mentioned in the reply opposing the application, in my view the present application can be disposed of on a short ground. If there are vacancies at Nagpur, the question arises whether the applicant

is entitled to transfer or not subject to administrative ground of willingness of the Director at Nagpur and other reasons. But there are no vacancies at Nagpur.

5. It is true that when the application was filed in 1997, there were vacancies of two posts of Stenographer Grade III. The respondents have moved for upgradation of these two posts. Therefore the applicant's request was not considered. The applicant still contends that there are two posts of Stenographer Grade III available at Nagpur. But the learned counsel for the respondents placed before me a recent order of the ICAR, New Delhi dated 15.12.98 under which permission has been granted to up-grade the two posts of Stenographer Grade III to the post of Stenographer Grade II. In view of the latest order, at least as on today, there are no vacancies of Stenographer Grade III at Nagpur. Hence consideration of applicant's claim will not arise. It is well settled that a Court or a Tribunal should not pass any order which becomes infructuous or which cannot be implemented or executed. Even if the Tribunal allows the application and gives a direction to the respondents to transfer the applicant to Nagpur, the order cannot be implemented when there are no vacancies at Nagpur. Hence such an order cannot be passed. As on today there are no vacancies of Stenographer Grade III at Nagpur. The present application for a direction to the respondents to transfer the applicant from Bombay to Nagpur will not survive. As and when

fresh vacancy occurs at Nagpur, it is open to the applicant to make representation to the Administration and the Administration to consider the request as per rules.

6. In the result the O.A. is dismissed. However this order is without prejudice to the applicant to make fresh application as and when vacancies arises and it is also open to the Administration to consider the representation as per rules. In the circumstances of the case there will be no order as to costs.

*R. G. Vaidyanatha*

(R.G. Vaidyanatha)  
Vice Chairman

NS