

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 344/97

Transfer Application No.

Date of Decision 20.10.1997

S.K.Pillai

Petitioner/s

Shri S.P.Saxena

Advocate for  
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K.Shetty

Advocate for  
the Respondents

CORAM :

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

Hon'ble Shri. M.R.Kolhatkar, Member (A)

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

M.R.Kolhatkar

(M.R.KOLHATKAR)

MEMBER (A)

R.G.Vaidyanatha  
(R.G.VAIDYANATHA)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

DA.NO. 344/97

Monday this the 20th day of October, 1997

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman  
Hon'ble Shri M.R.Kolhatkar, Member (A)

S.Krishnankutty Pillai  
Stenographer Grade-II,  
Office of Chief Engineer,  
Southern Command, Pune.  
R/at Defence Accounts Resi.Estate,  
Lullanagar, Pune.

By Advocate Shri S.P.Saxena

... Applicant

V/S.

1. The Union of India through  
The Secretary, Ministry of Defence,  
DHQ PO, New Delhi.
2. Engineer-in-chief,  
Army Head Quarters,  
Kashmir House,  
DHQ PO, New Delhi.
3. Chief Engineer,  
Southern Command,  
Pune.

By Advocate Shri R.K.Shetty  
C.G.S.C.

... Respondents

O R D E R

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application under Section 19 of  
the A.T.Act. Respondents have filed reply. Since  
the point involved is very short, the application is  
taken for final hearing <sup>37</sup> on the consent of both the  
counsel.

.. 2/-

2. The applicant has approached this Tribunal on the apprehension of threatened reversion from the post of Stenographer Grade II to Stenographer Grade III. The apprehension is based on show cause notice issued by the respondents dated 14.2.1997 where the applicant has been called upon to show cause as to why he should not be reverted to the post of Stenographer Grade III.

3. Few facts which are necessary for consideration of this application are as follows :- The applicant was initially appointed as Stenographer Grade III on 22.6.1974. It appears subsequently in 1983 he came to be transferred to Southern Command in the same capacity as Stenographer Grade III. Subsequently, the applicant came to be promoted as Stenographer Grade II in 1994. Now, the respondents want to revert the applicant to the original Grade III on the ground that his seniority should be counted not from the date of his initial appointment as Stenographer Grade III to the Central Command but his seniority has to be counted from the date he reported in the Southern Command.

4. The respondents have filed a reply stating that the action taken by them is fully justified. Their case is whenever a transfer is done to adjust surplus staff or the transfer is on compassionate ground, then a transferee will take a seniority from the date he is posted in new unit and not from the date of his initial appointment.

5. It is common ground that if the transfer is on compassionate ground, then the official is not entitled to take the benefit of earlier service in the new unit. It is also brought out that if the transfer is in the interest of public or State, then the transferee is entitled to add seniority in the erstwhile command when he is posted to <sup>a</sup>new command.

6. The applicant has produced the order of transfer which is at Exh. 'A-1'. The transfer order dated 3.2.1983 clearly states that the applicant is transferred permanently from Lucknow to Hyderabad in the interest of State. Even the learned counsel for the respondents produced the service register which also clearly records that the transfer was in the interest of State. Therefore, we can safely hold that the applicant was transferred in the interest of State. The Seniority Rules produced by the respondents at Exh. 'R-2' clearly says that only in case of transfer on compassionate ground, a transferee is not entitled to add the erstwhile service for the purpose of seniority. But in the case of transfer in the interest of State, then transferee is entitled to claim seniority from the date of initial appointment.

7. Since in this case, the materials on record clearly show that the applicant was transferred in the interest of State, his seniority will have to be counted from the date of his initial appointment in the Central

Command. Once it is held, then there is no difficulty that the applicant's promotion was on the basis of seniority and cannot be reverted on the basis of impugned show cause notice dated 14.2.1997 (Exh. 'A-3').

8. In the result, the application is allowed.

The impugned action of the respondents for reverting the applicant from Grade ~~III~~ <sup>II</sup> to Grade ~~II~~ <sup>III</sup> ~~on the basis~~ <sup>by 16/1/98</sup> ~~by 16/1/98~~ <sup>16/1/98</sup> ~~16/1/98~~ of impugned letter dated 14.2.1997 is hereby quashed.

The respondents shall not take any action for the reversion of the applicant for the reasons mentioned in the show cause notice dated 14.2.1997. In the circumstances of the case, there will be no orders as to costs.

M.R.Kolhatkar  
(M.R.KOLHATKAR)

MEMBER (A)

R.G.Vaidyanatha  
(R.G.VAIDYANATHA)  
VICE CHAIRMAN

mrj.

Note: Correction made in  
Date of Notice on 16/1/98  
in the order to correct  
the date in M.C. 94/98  
dated 16/1/98

Recd on  
V.C. 16/1/98