

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 484/97.

Date of Decision: 04.09.1997.

S.K. Hussain S.K. Lal,

Applicant.

Shri Ambadas Amle,

Advocate for
Applicant.

Versus

Union Of India & Others.

Respondent(s)

Shri R. K. Shetty,

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. B. S. Hegde, Member (J).

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

B. S. Hegde
(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 484/97.

Dated this Thursday, the 4th day of September, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

S.K. Hussain S.K. Lal,
House No. 40, Fakirwada,
Aurangabad Road,
Ahmednagar.

(C/o. Shri Ambadas Amle,
Advocate,
6586 Laxmi Karanja,
Ahmednagar -414 001)
(By Advocate Shri A. Amle).

... Applicant

VERSUS

1. Union Of India through
The Secretary,
Ministry Of Defence,
New Delhi.

2. The Engineer-in-Chief,
Army Headquarters,
New Delhi.

3. The Chief Engineer,
Southern Command,
Pune - 1.

4. Garrison Engineer,
Ahmednagar.

(By Advocate Shri R. K. Shetty).

... Respondents.

: ORAL ORDER :

I PER.: SHRI B. S. HEGDE, MEMBER (J) I

Heard Shri A. Amle, Counsel for the applicant
and Shri R. K. Shetty, Counsel for the respondents.

R.K.

2. The respondents vide their order dated 28.10.1996 transferred 45 employees including the applicant, who is shown at Sl. No. 35, from Ahmednagar to Kirkee. The first movement order was issued by the respondents on 07.12.1996, which has not been accepted by the applicant by evading service. All communications sent to him at his residential address through Registered Post were received back undelivered from the postal authorities. Since the applicant was not accepting any communication either personally or through post, the Movement Order dated 01.04.1997 which superseded the earlier Movement Order dated 07.12.1996, was pasted on the door of his house on 28.05.1997 by two officials of G.E., Ahmednagar. In this connection, the learned counsel for the applicant draws my attention to the Posting/Transfer policy of the department dated 31.08.1994, wherein para 25 reads as below :

"AGE FACTOR :

Persons having attained the age of 55 years prior to the date of move mentioned in the posting order should not be transferred except at their request to stations of their choice. However, if they have to move on promotion and if there is no clear vacancy in the station where they are serving, they may still be moved irrespective of the consideration of age."



The Learned Counsel for the respondents draws my attention to para 6 of the same guidelines which states that - "in all cases where staff are rendered surplus by reduction in the authorised strength and their re-adjustment becomes necessary, the longest stayee in the station will be posted out. In the case of postings involving inter command transfers, the junior most person in the grade within the Command will be declared surplus." Therefore, the Learned Counsel for the respondents submits that the transfer of the applicant is not inter-command but it is within the command. As per the policy in vogue, since the applicant became surplus, he has been transferred to Pune prior to his reaching of 55 years of age, which is in accordance with the policy followed by the respondents-department.


3. The Counsel for the applicant submits that the respondents have not yet issued the Movement Orders to others who have been transferred alongwith the applicant.

4. The question for consideration is, whether the transfer of the applicant is in accordance with the policy laid down by the respondents-department. In our view, the applicant has become surplus alongwith others, thereby, before attaining the age of 55 years, he has

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been transferred to Pune, which is in accordance with para 6 of the guidelines.

5. In the circumstances, I find no merit in the O.A. and the same is dismissed at the admission stage itself with no order as to costs. The Interim Relief granted on 05.06.1997 stands vacated.


(B. S. HEGDE)
MEMBER (J).

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