

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 770/98

Date of Decision: 15/10/98

Smt. P. V. Sucheta Petitioner/s

Shri S. S. Pakale Advocate for the
Petitioner/s.

v/s.

Union of India & 3 Ors. Respondent/s

Shri G. V. Tamba for Respondent Nos. 1 to 3.

Shri R. K. Shetty for Respondent No. ⁴ Advocate for the
Respondent/s

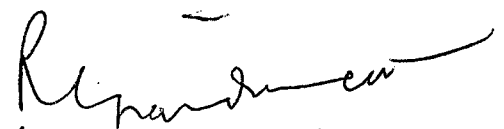
CORAM:

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

Hon'ble Shri

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

abp.


(R. G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO.770/98.

DATED THE 15TH DAY OF OCTOBER, 1998.

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

Smt.FVSucheta,
presently residing at 413-C,
Nofra, II Airport Road,
Dabolim, Goa.

... Applicant.

Advocate by Shri S.S.Pakale.

V/s.

1. Union of India,
through the Secretary,
Department of Ocean Development,
CGO Complex, Lodhi Road,
New Delhi.
2. Antarctic Study Centre, Goa,
through Dr.P.C.Pandey,
Advisor, Antarctic Study Centre,
Goa.
3. The Secretary,
Department of Ocean Development,
Mahasagar Bhavan, Block No.12,
CGO Complex, Lodhi Road,
New Delhi.
4. The Asstt. Director of
Census Operations(T),
Administration, Karnataka.

... Respondents.

By Advocate Shri G.V.Tambe for R-1 to 3.
By Advocate Shri R.K.Shetty for R-4.

ORDER

X Per Shri R.G.Vaidyanatha,V.C. X

1. This is an application filed by applicant challenging an apprehended order of repatriation. Respondent Nos.1 to3 have filed reply opposing the application. The learned counsel for fourth respondent adopts the stand of respondent Nos.1 to 3.
2. The applicant belongs to Department of Census Operations and working at Bangalore was deputed on request to work in the Office of the 2nd respondent at Vasco da Gama, Goa. Her 3 years have lapsed. It is now brought to my notice that by order dated 14/9/98 the Department of Ocean Development

of Government of India has passed an order repatriating the applicant to her parent department namely the Director of Census Operations, Karnataka. The applicant is challenging this order on number of grounds.

Respondents have filed reply opposing the application on many grounds including one ground pertaining to the jurisdiction of this Court.

3. After the applicant went on deputation to work under the second respondent, there is a recent development. It appears the Organisation of the second respondent has since been changed into an autonomous society under Society's ^{Registration} Registered Act. Now the second respondent no longer wants the services of the applicant and therefore repatriated her service to the parent department.

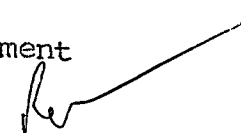
The question is whether under these circumstances, this Tribunal can interfere in the order of repatriation.

4. After hearing the counsel on both sides, I am of the view that the order of repatriation is justified. The applicant admittedly belongs to Department of Census Operations. She is not an official belonging to Ocean Development ^{Dept. our cannot continue here} unless the department gives extension for her deputation period. Now the Office of the second respondent has clearly stated that it does not require the services of the applicant. No Court or Tribunal can direct the second respondent to continue the applicant to work under it. If it is a case of mere transfer from one place to another place of the Department of Census Operations, different considerations would apply. But here we are considering the case of deputation of an official from one Department to another department. Under service rules, deputation cannot be claimed as a legal right unless both the borrowing department and lending department agree to the same. Since now the second respondent is not willing to continue the services of the applicant and since admittedly the applicant does not belong to Department of Ocean Development,

this Tribunal cannot give a direction that the applicant should be continued under the second respondents.

5. Then, there is a legal ^{hurdle} ~~handicap~~ in granting relief to the applicant even if we accept ^{her} the entire case. Now the second respondent ~~is~~ no longer a department of Government of India. It is now a different legal entity under the Society's Registration Act. ^{It} There is a moot point, whether this Tribunal has jurisdiction over the new Society, since on facts, I find that applicant's prayer for continuing under the second respondent cannot be granted when the second respondent is not willing to continue her, whether this Tribunal has jurisdiction over an ~~another~~ autonomous society registered under Society's Registered Act, and the Society is no longer a department of Government of India. ^{question not to be considered.} Therefore, the question is left open.

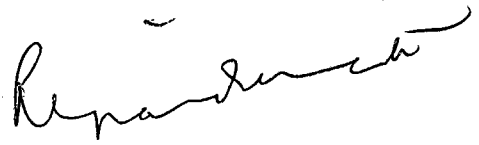
6. The applicant's grievance is that her husband is working at Goa and therefore her continuation in the State ^{in the} of Goa would be ~~be~~ interest of herself and her family members. Reliance was also placed on Government circular that normally, husband and wife should be placed in one and the same place. It is now well settled by decision of Apex Court in the case of S.L. Abbas reported at AIR 1993 SC-2444 that this transfer policy of the Government regarding husband and wife to be posted in same place is not a legal right but only a guideline. It is true that the guidelines should be followed by the different departments of Government, but that is a matter in which a Court or Tribunal should not interfere but the party should make a request to the Competent Authority, it is for the authority to decide on that question. It is now stated across the bar, that there is a vacancy in the Census Department in Goa and the applicant can be accommodated over there. This is a matter ~~On~~ in which I cannot express any opinion at this stage. However, liberty is given to the applicant to make a representation to the competent authority for accommodating her in the Department



in
of Census in Goa or/any other Government department in Goa
for one or two years or as long as her husband is working
in Goa. If such a representation is made, competent
authority to ^{take} pass appropriate decision according to rules
and according to exigencies of service. Since we are now
in the middle of the month, I feel that the applicant
should be allowed to continue till 31/10/98, that the
interim order should be continued till the end of this month.

7. In the result, the OA is rejected at admission
stage itself. Respondent No.2 is directed not to relieve
the applicant till the expiry of 31/10/98. In the
circumstances of the case, there will be no orders as to
costs.

abp.



(R.G.VAIDYANATHA)
VICE CHAIRMAN