

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

MON DAY THE THIRD DAY OF JULY 32
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

:PRESENT:

~~THE HON'BLE MR. B. N. JAYASIMHA: VICE-CHAIRMAN~~
AND

~~THE HON'BLE MR. D. SURYA RAO: MEMBER (JUDL)~~
AND

~~THE HON'BLE MR. D. K. CHAKRAVORTY: MEMBER (ADMN.)~~

~~AND~~

THE HON'BLE MR. C. NARASIMHA MURTHY: MEMBER (JUDL). ✓

TRANSFERRED / ORIGINAL / MISCELLANEOUS / CONTEMPT / APPLICATION
NO 131 OF 1989.

BETWEEN:-

Baipalli Tulasi Das

.....Applicants

(Applicants in T.A/O.A.
No. 0F198
on the file of the
Tribunal).

AND

Lieutenant Commander Chief Inspector
of Naval Armament Inspectorate,
Mysorekhapatnam - 9.

.....Respondents
(Respondents in - do -)

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O.A.131 of 1989.

single
(Judgment of the Bench delivered by Hon'ble Judicial
Member, Shri J.Narasimha Murty.)

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This is an Application filed by the Applicant against the Order No.VI/1106 dated 11-2-1989 and the Movement Order in VI/1106 dated 13-2-1989 issued by the respondents challenging the Movement Order of the Applicant from NAI Visakhapatnam to NAI Kadki and declare them as illegal and void and consequently direct the respondents to continue the Applicant as Chargeman in NAI, Visakhapatnam and pass such other order or orders as this Tribunal deems fit.

The facts briefly stated in the Application are as follows:

The Applicant was appointed as Examiner by the Flag Officer, Commanding-in-Chief, Eastern Naval Command, Visakhapatnam on 1-5-1971 and was subsequently promoted as Chargeman (AMMN) in the year, 1985. The Applicant states that he is leading very unsettled life all these years as he lost all his properties in Burma and has come to India as a repatriate ~~and undertake~~ to bring up his brothers and sisters and settle them in life. Due to the family problems his wife fell sick and is undergoing treatment in K.G.Hospital, Visakhapatnam. The Applicant also fell sick.

The Director of Naval Armament, Naval Head Quarters, New Delhi by his order dated 15--7--1987 ordered transfer of the Applicant permanently to Naval Armament Inspectorate, Kadki in the same capacity. He has received orders 10-10-1987 pursuant to the orders of the Director effecting his transfer from Visakhapatnam to Kadki with effect from 31--10--1987. He was granted 12 days' joining time. Having come to know of this, the Applicant filed a representation dated 12-10-1987 before the Director of Naval Armament Inspector. In his representation he stated that Shri S. Ganapathy Rao is willing to go to Kadki in his place and he also stated that in the Department there are number of instances where mutual adjustment cases were accepted and approved by the Authorities. He also mentioned the cases of one A. Nandagopal, M.A. Sattar and G. Ramachandra Rao. Sri A. Nandagopal, Chargeman(A) was transferred to Kanpoor, but when one A.S.R. Moorthy, Chargeman(A) has expressed his willingness to go on transfer in place of Nandagopal, the Authorities agreed and transferred A.S.R. Moorthy in the place of Nandagopal. Likewise one Sri M.A. Sattar, S.O.M(A), N.A.I., Bombay was transferred to Jabalpur. One Sri Ram S.O.M(A) N.A.I., Bombay offered to go on transfer in the place of M.A. Sattar and the same was accepted and Sri Ram was transferred to Jabbalpur during October, 1987.

He has also stated that one Sri G. Ramachandra Rao, O.M(A) NAI Visakhapatnam was transferred to NAI Kadki in the same capacity his transfer was cancelled on medical grounds. The Applicant also states that though there are 3 seniors to him and they are staying at the same place for a longer period than the Applicant, they were not transferred. He states that the Authorities have not considered his representation.

Aggrieved by the inaction of the Authorities he filed O.A.No.482/88 on 2-8-1988 on the file of this Tribunal challenging the orders of transfer dated 15-7-1987 issued by the Naval Head Quarters and also the consequential Movement Order d/10-10-1987 issued by the 3rd respondent. This Tribunal while admitting the O.A. on 2-8-1988 granted time to respondents to file their counter. The respondents have not filed their counter inspite of several adjournments. Finally the case was heard on 27-1-1989. The standing counsel for the respondents argued the case based on the information in para-wise remarks sent by the respondents.

This Tribunal by its judgment dated 2-2-1989 allowed the Application setting aside the orders of Director of Naval Armament Inspectorate and also the consequential order of the 3rd respondent d/10-10-87 and directed the respondents to reinstatement the

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Applicant to duty at Visakhapatnam and ordered till the disposal of the representation of the Applicant he should not be transferred. After obtaining copy of the order, he approached the 3rd respondent on 6--2--1989 and reported for duty on 9-2-1989. The Applicant was allowed to work till 11-2-1989 and on 13--2--1989 the respondent issued Movement Order. It was stated in that order that the Applicant was permanently transferred to Naval Armament Inspectorate (Khadki) with effect from 22--2--1989 and he was granted 12 days leave preparatory from 23--2--1989. It was stated in the order that the applicant's representation dated 12--10--1987 has been considered by the competent authority and the competent authority has not accepted his request on administrative grounds. It was further stated in that order that Sri Ganapathi Rao has requested for transfer to Pune on his own medical grounds and not as a substitute for him and that Ganapathi Rao has already requested the administration to cancel his previous application. It is very relevant to mention here that the parawise remarks which were sent between 15-1-1989 and 27-1-1989 there is no whisper about Ganapathi Rao's withdrawing his previous application. No dates were given. It was also not stated who is the competent authority that disposed of the representation of the Applicant and on what date. A reading of the order clearly

discloses that the 3rd respondent on his own passed the order.

The order of the respondent is in willful violation of the order of this Hon'ble Tribunal and the respondents willfully committed contempt of court. In the Judgment of the Tribunal, it is clearly mentioned that the 1st respondent in the Director, Naval Armament Inspectorate, Naval Head Quarter, New Delhi has to consider the representation. Further, as on today there are no transfer orders issued by the competent authority in Naval Head quarters. The transfer order dated 15--7--1987 was set aside by this Hon'ble Tribunal. There are no transfer orders. The respondent is not competent to issue movement orders. The order of the respondent is wholly illegal and without jurisdiction.

The respondent under the evil influence of the Applicant's superiors pressuring Sri Ganapathi Rao to give a letter revoking his earlier letter and making premises that he would be given promotion which was due but denied in 1988. The 3 seniors referred to in the earlier paras and the 3rd respondent are bent upon to shunt to far of place in order to cover up their deeds.

The Applicant states that he was due for promotion in 1988 but was not given. Shri K.L.Achari who is junior to the applicant was promoted during

the year, 1988. The Applicant states that the reason given by the respondent for not transferring his two seniors would also be applicable to him.

The Applicant prays for a declaration that Order No. VI/1106 dated 11--2--1989 and 13--2--1989 issued by the respondent are illegal and void and direct the respondents to continue the Applicant as Chargeman in NAI, Visakhapatnam.

The Respondent filed his counter denying all averments mentioned in the various paras of the Application and finally stated that they have withdrawn the transfer orders of the Applicant to Khadiki and he was transferred again to Bombay. So the respondent states that the petition has to be dismissed.

Heard the arguments of the standing counsel for Government Shri Bhaskara Rao. Neither the Counsel for the Applicant nor the Applicant present even though the case underwent several adjournments.

The counsel for respondent states that the orders of the Hon'ble Tribunal were already carried out by the respondent and the transfer order to Khadiki was withdrawn and the Applicant was transferred to Bombay and the Applicant has filed another petition for cancellation of the order of transfer to Bombay and that petition is pending

and there is no need to entertain this claim in this petition and the petition is to be dismissed. Further, the Lt. Commander Chief Inspector of Naval Armament Inspectorate, Visakhapatnam also filed a letter dated 17-3-89 stating that the orders of transfer of Applicant to Khadki have been cancelled and therefore the Movement Order 6/1106 dated 13--2--1989 has also been cancelled.

In view of the submission of the learned counsel for the Respondent and in view of the letter dated 17-3-1989 of Lt. Commander Chief Inspector of Naval Armament Inspectorate, Visakhapatnam, there is no need to entertain this petition. *as the Petition has become infructuous* Hence this petition is dismissed. No costs.

MS

(J. NARASIMHA MURTHY)
MEMBER (Judl.)

3--7--1989

*S. Venkatesh
By Registrar/Hy*

To.

- 1) Lieutenant commander chief Inspector of Naval Armament Inspectorate, Visakhapatnam-9.
- 2) one copy to Mr. M. P. Chandramouli, Advocate, 1-7-539/1, Goleonda X Road, Hyderabad-4
- 3) one copy to Mr. N. Bhaskara Rao, Addl. CGSE, CAT, Hyderabad.
- 4) one spare copy.

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6/7/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

~~HON'BLE MR. B. N. JAYASIMHA: (V.C.)~~
AND
~~HON'BLE MR. D. SURYA RAO: MEMBER (JUDL)~~
AND
~~HON'BLE MR. D. K. CHAKRAVORTY: MEMBER (A)~~
AND
HON'BLE MR. J. NARASINHAMURTHY: MEMBER (J)

DATED: 3-7-89

ORDER / JUDGMENT

F.A. / O.A. 131 / 89
(W.P. No.)

(Dismissed with reflections)

