

(96)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.254 of 1989.

Date of Judgment: 2--1--1990

Between:

Raipalli Tulasidas. .. Applicant.

Vs.

The Director of Naval Armament  
Inspectorate, Naval Head Quarters,  
New Delhi, and two others. Respondents.

Sri M.P.Chandramouli, Counsel for the Applicant.

Sri E.Madanamehane Rao, Additional Standing Counsel  
for Respondents.

ORDER:

Judgment of the Single Member Bench  
pronounced by Hon'ble Sri J.Nara-  
simhamurthy.

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The applicant filed this application for  
a declaration that the Order No.AI/1341 dated 3-3-1989  
issued by the 1st respondent and the consequential  
Order No.VI/1106 dated 20--3--1989 transferring  
the applicant from NAI Visakhapatnam to NAI Bombay  
as illegal and void and to direct the respondents  
to continue the applicant as Chargeman in NAI,  
Visakhapatnam.

The averments in the application are  
as follows:

The applicant migrated from Burma as a  
repatriat in the year about 1964 and immediately  
thereafter his father expired and the burden of  
maintaining the family consisting of the applicant's

mother, two younger brothers and one younger sister was shifted on him. He also got married in the year about 1967. He got employment and appointed as Examiner by the Flag Officer, Commanding-in-Chief, Eastern Naval Command, Visakhapatnam on 1--5--1971 and subsequently promoted as Chargeman (AMN) 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 he has to ~~under~~ maintain his brothers and sisters and settle them in life. Due to family problems his wife fell sick and she is taking constant treatment at K.G. Hospital, Visakhapatnam. The applicant also fell sick.

While so, the 1st respondent by his order dated 15--7--1987 transferred the applicant permanently to Naval Armament Inspectorate, Kadki in the same capacity. This order is not yet communicated to the applicant. Having come to know of the above transfer he filed a representation before the Director of Naval Armament Inspectorate. He stated in his representation that due to ill-health of his wife and his health condition, he cannot be transferred to a place of total opposite climate. In that connection, he requested his co-employee S. Ganapathy Rao, Chargeman (AMN) to go as a substitute to Kadki in his place. Subsequently he was informed by the Authorities that his case is being considered favourably. But the 3rd respondent issued orders dated 10--10--1987 pursuant to the orders of the 1st respondent effecting his transfer from Visakhapatnam to Kadki with effect from 31--10--1987. He also granted to him 12 days joining time. But this order was also not received by him. Having come to know this, he again represented to the Director of Naval Armament Inspectorate. In that representation, he reiterated the fact that Sri S. Ganapathy is willing to go to Kadki

in his place and he also stated that in the department there are number of instances where "mutual adjustments" were accepted and approved by the authorities. The applicant also states that there are 3 seniors to him and they are staying at the same place for a longer period than the applicant but they were not transferred. The Authorities have not considered his application.

The applicant applied for sick leave from 8--10--1987 to 13--3--1988. He also filed a medical certificate issued by a Private Doctor. The leave was sanctioned. Subsequently the 3rd respondent by Memo dated 5--3--1988 directed the applicant to get himself examined by R.M.O., King George Hospital and forward the medical certificate to consider his further leave eligibility on medical grounds. The applicant was examined by R.M.O., King George Hospital and the Superintendent of K.G. Hospital issued a medical certificate on 17--3--1988. The applicant also filed another medical certificate dated 14--5--1988 recommending rest. The applicant states that the 3rd respondent issued a Memo dated 20--7--1989 that he is being referred to Medical Board and he states that the action of the 3rd respondent is arbitrary. The examination by Medical Board is only for Gazetted Officers and not to non-gazetted staff. The applicant filed O.A.No.482/88 challenging the order of transfer and this Tribunal by its judgment d-2-2-1989 allowed the O.A., setting aside the orders of the 1st respondent directing the respondent to dispose of the representation of the applicant. Without complying the orders of the Tribunal, the 3rd respondent once again transferred him by orders dated 11--2--1989. The applicant challenged this order in O.A.No.13/1989. The Tribunal granted stay of all further proceedings pursuant to the order dated 11--2-1989.

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The applicant submits that while so the 3rd respondent issued Order No VI/1106 dated 20--3--1989 stating that the applicant is under orders of transfer to NAI Bombay as per NHQ (DNAI) letter A1/1341 dated 3-3-1989. The applicant was directed to submit his requirement for TA/DA advance by 25th March, 1989 and it has to be completed by 17th April, '89. On receipt of the said order the applicant filed a petition on 27--3--1989 before the 3rd respondent for grant of 1 week time for applying TA/DA but the 3rd respondent refused to grant any time. The applicant submits that even 48 hours before the movement TA/DA can be claimed.

The applicant states that there is no justification for his transfer. The action of the respondents amounts to victimisation and abuse of power vested in the authorities. The action of the respondents is arbitrary and is hit by Articles 14 and 16 of the Constitution. The order of the 1st respondent dated 3-3-1989 was not served on the applicant. Hence the application.

The respondents filed their counter with the following contentions.

It is a fact that the applicant was transferred to Khadki and the same was cancelled as per orders of the 1st respondent dated 2--3--1989. Sri Ganapathy Rao who has agreed to go in the place of the applicant to Khadki has withdrawn his application for mutual transfer.

The petitioner was transferred to Naval Armament Inspectorate, Bombay as per Naval Headquarters Order dated 3--3--1989. He was also directed to take advance T.A., and D.A.

The original transfer order was cancelled. The applicant was transferred to Bombay on administrative grounds. The action of the respondents cannot be called as violative of Articles 14 and 16 of the Constitution. The applicant

has been transferred to Bombay as per requirements and the said order cannot be called as illegal. The other allegations made by the applicant in the application are denied by the respondents. The respondents state that the applicant was transferred due to administrative grounds and ~~there are no merits in the application~~ the respondents have not acted arbitrarily and there are no merits in the application and is liable to be dismissed.

Sri M.P.Chandramouli, learned counsel for the applicant and Sri Madamohana Rao, learned Additional Standing counsel for the respondents advanced arguments.

The learned counsel for the applicant urged that in case the Court comes to conclusion that the Transfer is made on administrative grounds the applicant at least ~~be~~ retained in his old station till the end of May, 1990 as he is unable to move to his new station because his children are studying in the schools.

Sri Madana Mohana Rao states that the transfer was made on administrative grounds and ~~there are no mala fides on the part of the respondents~~ the Tribunal cannot interfere with ~~the~~ order issued by the respondents.

After considering the arguments of both the counsel, I feel that the transfer was made on administrative Grounds and there are no mala fides on the part of the respondents in transferring the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

O.A.No.254 of 1989.

Date of Judgment:24-1-90.

Between:-

Raipalli Tulasidas.

... Applicant.

vs

The Director of Naval Armament Inspectorate,  
Naval Head Quarters, New Delhi.

2. The Flag officer-commanding-in-chief,  
Eastern Naval Command, Visakhapatnam.

3. Chief Inspector of Naval Armament Inspectorate,  
Visakhapatnam-9.

... Respondents.

FOR THE APPLICANT : Mr.M.P.Chandramouli, Advocate.

FOR THE RESPONDENTS : Mr.E.Madan Mohan Rao, Addl.CGSC.

CORAM: THE HON'BLE MR.J.NARASIMHA MURTHY:MEMBER:(J)

.....

THE TRIBUNAL MADE THE FOLLOWING CLARIFICATION TO THE ORDER  
OF THE TRIBUNAL DATED. 2-1-90 AND DESPATCHED ON 19-1-90.

contd..

To:

1. The Director of Naval Armament Inspectorate, Naval Head Quarters, New Delhi.
2. The Flag officer-commanding-in-Chief, Eastern Naval command, Visakhapatnam.
3. The Chief Inspector of Naval Armament Inspectorate, Visakhapatnam.
4. One copy to Mr. M. P. Chandramouli, Advocate, 1-7-139/1, Golkonda X Road, Hyderabad-500 048.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
6. One spare copy.

. . . . .

kj.

Classified.  
30/1/68  
AB

24--1--1990

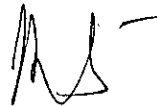
O.A.No.254/89.

This case has come up before me today "for being mentioned" and for clarification, *it is therefore,* ~~is~~ clarified as under: This may be substituted as last Para at Page 6 of the Judgment dated 2-1-1990.

Taking into consideration of the submission of the learned counsel for the applicant that he may be retained at his old station till the end of May, 1990 which appears to be reasonable, <sup>So</sup> I direct the respondents not to disturb the applicant till the end of May, 1990. The respondents may

issue orders suspending the transfer till the end of May, 1990 and issue fresh orders of transfer in the first week of June, 1990.

The applicant may also be granted joining time and also be granted advance of T.A., Advance of Pay and Transfer Grant etc., in order to proceed to his new station. With these directions, the application is disposed of. There will be no order as to costs.



(J. NARASIMHAMURTY)  
Member (Judicial)  
24-1-1990.

SSS.

  
DEPUTY REGISTRAR (J)  
1-2-90



(M)

Taking into consideration of the submission of the learned counsel for the applicant that he may be retained at his old station till the end of May, 1990 <sup>appears to be a</sup> ~~reasonable request~~ for which the learned Additional Standing Counsel for the respondents fairly conceded that the respondents have no objection for his retention till the end of May, 1990. <sup>Do</sup> I direct the respondents, not to disturb the applicant till the end of May, 1990. The respondents may issue orders suspending the transfer till the end of May, 1990 and issue fresh orders of transfer in the first week of June, 1990. The applicant may also be granted joining time and also be granted ~~an~~ advance of T.A., Advance of Pay and Transfer Grant etc., in order to proceed to his new station. With these directions, the application is disposed of. There will be no order as to costs.

This para is deleted by the  
Classification order of the Tribunal  
dt. 24.1.90. It is classified  
Order is substituted  
C.O.

(J. NARASIMHAMURTY)  
Member (Judicial)  
2--1--1990.

DEPUTY REGISTRAR (J)

SSS.

TO:

1. The Director of Naval Armament Inspectorate, Naval Head Quarters, New Delhi.
2. The Flag Officer-commanding-in-chief, Eastern Naval Command, Visakhapatnam.
3. The Chief Inspector of Naval Armament Inspectorate, Visakhapatnam.
4. One copy to Mr. M.P. Chandramouli, Advocate, 1-7-139/1, Golkonda X Road, Hyderabad-500 048.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
6. One spare copy.

kj.

82  
17/1/90

Draft by:      Checked by:      Approved by  
D.R.(J)

Typed by:      Compared by:

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. NARASIMHA MURTHY: MEMBER (J) ✓

DATED: 2-1-90 ✓

ORDER/JUDGMENT ✓

M.A./R.A./C.A./No.

in

I.A.No.

(W.P.No.)

O.A.No. 254/89 ✓

Admitted and Interim directions  
issued.

Allowed.

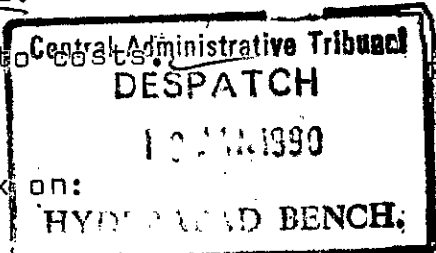
Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

Sent to Xerox on:



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17/1/90