

(62)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

O.A. NO.

449/89

~~T.A. NO.~~

DATE OF DECISION

24.1.90

Petitioner

Advocate for the
Petitioner (s)

Versus

Respondent

Advocate for the
Respondent (s)

CORAM

The Hon'ble Mr.

B. V. Jayasinha, H.C.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgment? No
2. To be referred to the Reporter or not? No
3. whether their Lordships wish to see the fair copy of the Judgment? No
4. whether it needs to be circulated to other Benches of the Tribunal? No
5. Remarks of Vice-Chairman on columns 1,2,4. (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench) No

B.V.

(B.V.)
H.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 449 of 1989:

Date of Order: 24.1.1990

P.Venu Gopal

...Applicant

Versus

The Heavy Water Project
Department of Atomic Energy,
Government of India, Manuguru,
Khammam district, represented
by its General Manager.

2. The Manager (Admn.) Heavy Water
Project, Govt. of India, Manuguru,
Khammam district.

...Respondents

For Applicant: ...Mr.M.R.K.Choudary, Advocate.

For Respondents: ...Mr.N.Bhaskar Rao,
Addl.C.G.S.C.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

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(Judgment delivered by Shri B.N.Jayasimha, Vice Chairman)

1. This is an application directed against the order issued by the 2nd respondent transferring the applicant from Process section, Main Plant to Estate Maintenance Cell (colony), through Order No.HWPM/1/1/20-89/Rectt/26, dated 24-05-1989.

2. The applicant states that he was initially appointed as unskilled worker and he has been working as such with effect from 15-12-1983 under the respondents. After necessary selection, he was appointed as Tradesman 'A' and has been working with effect from 3-4-1986. After his appointment as Tradesman 'A', he was working until 31-5-1986

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in Mechanical sections and thereafter with effect from 1-6-1986 till today he has been working in the Production section. By Order dated 24-5-1989, the 2nd respondent transferred the applicant from Process section Main Plant to Estate Maintenance Cell (colony) with immediate effect and he was directed to report to the Engineer incharge, Estate Maintenance Cell. The applicant protested against the order. The applicant contends that the transfer order is in the nature of punishment and deprives him from exercising his functions as a Member of the Employees' Association. He further contends that the order is motivated and only invented to prevent him from discharging his functions as a Member of the Executive body of the Employees' Association. He also states that the impugned order is contrary to the earlier understanding arrived at between the management and the association and also in the reconciliation proceedings before the Asst. Labour Commissioner (Central), Vijayawada. Even if the applicant is to be transferred from the section where he is working in the main campus, he should have been transferred to any other section instead to the Estate Maintenance Cell which is outside the premises of the main project. Hence, he has filed this application.

3. The respondents in their counter state that the applicant who was earlier working in shift duties was put on general shift to further facilitate ^{his work} him. He did very little to improve his relationship with his supervisors and added more tension to the working atmosphere in the plant. Therefore, in the interest of the Plant and smooth working of the Process Section it was necessary to transfer him out of the section.

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4. It is further stated that for the mis-conduct and for the tension he was creating in the Process Section by not adhering to the instructions of his superiors of his section, it was necessary to suspend him on 28-3-1989 in the interest of organisation and safety of men and material. After the issue of transfer order he submitted a letter dated 26-5-1989 indicating that he is not well and that Medical Officer advised him to take rest for 3 days. He did not attach any medical certificate alongwith this letter. Through letter dated 1-6-1989 he was asked to report to Medical Officer on 2-6-1989, but so far he has not submitted any Medical Certificate. Further, in a letter issued by Employees' Association, while requesting to cancel the transfer order, the Association did not oppose to this transfer as such. The Association suggested that he may be transferred to Captive Power Plant which is about $1\frac{1}{2}$ Km from the Main Plant area. The transfer order has not been issued as a measure of victimisation of the employee. The transfer was issued as agreed to with the Association on the day of meeting on 30-3-1989. The respondents further state that the applicant continued to disobey the instructions of the superiors and was instigating the other workers to follow his suit which was hazardous from safety point of view to continue such an operator as the function of the plant involves lives of men and very costly machinery.

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His transfer to Estate Maintenance Section is in the interest of work and administration. The applicant is expected to work for ventilating the grievances of employees after he has performed his official duties, As a pump operator, he has to work in shifts and as the Estate Maintenance Section is connected by regular buses with site and that there are other Association functionaries attending shift duties, the contention of the applicant that the transfer is intended to prevent him working as an executive member of Union is baseless. For these reasons the respondents oppose this application.

5. I have heard Shri M.R.K.Choudary, learned counsel for the applicant and Shri Bhaskar Rao, Addl. Central Government Standing Counsel.

6. From the facts, it is clear that the applicant has been transferred from one section to another section under the same Organisation. It does not involve any change of place. Disciplinary proceedings have also been initiated against the applicant. The allegations against him include his refusal to go to Raw Water Intake well on 8-12-1988, that he refused to take orders from the Superior Officer and that he refused to start the Effluent Dilution Pumps on the direction of the officer,

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etc.. It is well settled in Kamlesh Trivedi Vs. ICIR (1988 (7) ATC 253) that 'transfer is an incidence of service and the employees are liable to serve wherever they are posted.' There is no loss of emoluments and the post to which the applicant has been posted is in the same trade. The main ground urged by Shri Chowdary is that his transfer has been made because of his activities as a member of the Union. The facts, in my view do not support this contention. The applicant is facing a disciplinary enquiry for charges of disobedience. The respondents have stated that continuance of the applicant in the present post would jeopardise the safety of the unit. In these circumstances, I do not find that the impugned order has been made for any collateral purposes or is mala fide. In the result the application fails and it is dismissed with no Costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE-CHAIRMAN

Dated 24th January, 1990

S. Venkatesh
DEPUTY REGISTRAR (J)
25/1/90

SQH/tar.

TO:

1. The ~~Heavy Water Project~~ General Manager, Heavy water project, Department of Atomic Energy, Government of India, Manuguru, Khammam Dist.
2. The Manager (Admn.) Heavy Water project, Government of India, Manuguru, Khammam Dist.
3. One copy to Mr. M.R.K. Choudary, Advocate, 'Satya Soudha', 6-3-600/A/5, Erramanzil, Hyderabad-500 482.
4. One copy to Mr. N. Bhaskara Rao, Addl. CGSC., CAT, Hyderabad.
5. One spare copy.

kj.

Case Number	OA 449189
Date of judgement	24.1.90
Copy made ready on	25.1.90
<i>A. Deely</i> Section Officer (J)	

550-11 24/1/90