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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

THE THIRTY EIGHTH DAY OF JUNE

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. S. NARASIMHA MURTHY: MEMBER (JUDL).

TRANSFERRED / ORIGINAL/MISCELLANEOUS/PENTMET/APPLICATION
NO 469 OF 1989.

BETWEEN:-

P. G. Murthy ✓

.....Applicants

(Applicants in T.A.O.A

No. 469

on the file of the

Tribunal).

AND

- 1) union of India, represented by
the Secretary, Ministry of Defence,
New Delhi.
- 2) controller general of Defence Accounts, (CDA)
R. K. Puram, New Delhi.
- 3) controller of Defence Accounts (OR5)
south 1, Kamraj Road, Bangalore - 560 001.
- 4) joint controller of Defence Accounts (OR5) Respondents
Respondents in de-
(JCD) Ije. PTA (OR5) Aoe
Secunderabad - 500 015.

— Respondent —

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(JUDGMENT OF THE TRIBUNAL DELIVERED BY MEMBER (J)
SHRI D.SURYA RAO).

Counsel for the Applicant : Shri T. Jayant, Advocate

Counsel for the Respondents : Shri P. Ramakrishna Raju,
Sr. CGSC

The applicant herein who is a Senior Auditor in the office of the Joint Controller of Defence Accounts, Pay and Accounts Office (ORS), A.O.C., Secunderabad, seeks to question administrative Order No.19, dt. 24-5-89 passed by the fourth respondent informing the applicant that he will be relieved with effect from 31-5-89 (AN) consequent on ~~the~~ his transfer to A.O. (DAD) H.A.L., Koraput in Orissa.

The authority for this order was Transfer Order No. AN/I/707/ HAL/1 dated 15-5-89. Earlier, thereto on 24-5-89 he submitted a representation to the 3rd Respondent requesting retention at Secunderabad. He states, he did so as he came to know that transfer is being effected due to personal prejudice.

After receipt of the impugned order Dt. 24-5-89, he submitted an appeal to the 2nd Respondent on 31-5-89. On 5-6-89 he received a letter from the 4th Respondent that the 3rd Respondent had, with reference to the representation dated 24-5-89, directed his relief from 31-5-89. He thereupon filed the present application stating that the transfer is violative of the transfer policy laid down for the department, that he is entitled to be retained on compassionate grounds and that he is being discriminated since persons with longer tenure at Hyderabad are continuing.

2. We have heard Sri T.Jayant, the learned counsel for the applicant and Shri Parameshwara Rao, Advocate for the Sri Ramakrishna Raju, CGSC, for the Respondents on notice before admission. The applicant has been in his present station for over 19 years. The question is whether the transfer violates the policy guidelines. Sri Jayant contends that the transfer violates paras 368, 369, 370, 375 and 380 of the Guidelines. In our view none of these provisions are a bar to the transfer of the applicant, nor would the transfer be rendered illegal by virtue of these provisions. Admittedly, the post involves transfer liability and transfer is a matter of administrative convenience and discretion dependent upon administrative exigencies. The applicant has stated that the transfer is effected due to personal prejudice but does not give any details. In regard to discrimination the applicant states that persons with a longer tenure than him, are continuing at Secunderabad. Sri Parameshwara Rao, however, states that all such persons are in other commands and not in the same command of the applicant. The question of discrimination ~~does~~ vis-a-vis those persons does not arise. The learned counsel for the applicant further however, brings to our notice an order in O.A.No.K.50/87 dated 31-7-87 wherein the Madras Bench of the Tribunal has passed the following order:

"The Senior Central Government Standing Counsel has filed a statement to the effect that on the

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basis of representations submitted by these applicants for reconsidering their transfer, the order of transfer has been cancelled by the order dated 15-6-87. In view of the above, this application is closed."

Shri Jayant has contended that this order was passed taking the station seniority into consideration and if station seniority is to be the factor or criteria for determining who has the longest tenure at the station, there will be a large number of others who have had longer tenure at Hyderabad/Secunderabad and who would be liable to be transferred. This is a matter to be ~~agitated~~ ^{adjudicated} before the department concerned and if necessary by way of a representation to the C.G.D.A. As a legal proposition, it cannot be said that in all cases wherein persons with longer tenure are retained at a station, the junior should not be transferred, and such a transfer amounts to discrimination, violative of Articles 14 and 16. Hence, merely because in Madras, the decision was reconsidered it does not necessarily follow that the present Application should be allowed on the ground of discrimination. ~~So~~ It is open to the applicant to make a suitable representation on the ground of station tenure to the competent authority.
~~however one of the view that this is not a case requiring interference by the Tribunal. We see no merits in the case. The O.A. is accordingly~~

dismissed. No C.R. No

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mhb/
mhb/

D. Surya Rao
(D. Surya Rao)
Member (J)

Dated: the 30th day of June, 1989.

D. K. Chakravorty
(D. K. Chakravorty)
Member (A)

Signature
by Registrar (J)