

(41)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 282/91.

Date of Decision :

~~F.A.No.~~

14-6-91

B.T.Ranganna

Petitioner.

Shri P.V.Venkata Rangam

Advocate for the
petitioner (s)

Versus

Superintending Engineer, Krishna Kaveri Circle, Respondent.
5-9-210/B, Bl, Chirag Ali Lane, Hyderabad-500001
& 2 others

Shri N.Bhaskara Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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)

HJNM
M(J)

HRBS
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.282/91.

Date of Judgment 14-6-91

B.T.Ranganna

.. Applicant

Vs.

1. Superintending Engineer,
Krishna Kaveri Circle,
5-9-210/B, Bl,
Chirag Ali Lane,
Hyderabad-500001.
2. Executive Engineer,
Lower Krishna Division,
Central Water Commission,
Abid Manzil, A.C.Guards,
Hyderabad.
3. Asst. Executive Engineer,
Lower Tungabhadra Sub-Division,
Central Water Commission,
Kurnool-2, Andhra Pradesh.. Respondents

Counsel for the Applicant : Shri P.V.Venkata Rangam

Counsel for the Respondents : Shri N.Bhaskara Rao, Addl.CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri B.T.Ranganna under section 19 of the Administrative Tribunals Act, 1985 against the Superintending Engineer, Krishna Kaveri Circle, 5-9-210/B, Bl, Chirag Lane, Hyderabad-500001 and 2 others.

2. The applicant is now working as a Khalasi in the Kurnool Division and by orders dated 30.4.90 the 2nd respondent transferred him from Kurnool to Malkhed in Karnataka

in the same Division. The applicant alleges that this transfer was a result of malafide intention on the part of Respondent No.3 whom he had displeased by refusal to perform certain menial work at his house. The applicant points out that there are 6 others who have got longer stay in Kurnool Division. He also points out that his transfer to karnataka at this stage would adversely affect the education of his children and the treatment of his sickly old mother. The applicant filed O.A.No.418/90 and in its order dated 16.5.90 this Bench of the Tribunal directed that he may first prefer an appeal against the order of transfer to the next higher authority and that till the disposal of the appeal the transfer of the applicant shall not be implemented. It is the case of the applicant that his appeal not having been disposed of yet, ~~the proposal to implement his transfer~~ ^{the proposal to implement his transfer} ~~his transfer order was proposed to be implemented after~~ 31.3.91 as indicated to him in letter No.LKD/WC/A/20014/18/90/7070 dated 21.12.90 (Al) ^{is illegal.} The applicant prays that his transfer order be cancelled.

3. The application is opposed by the respondents. It is pointed out by them that his very first recruitment was a work-charged Khalasi at Deosugur in Karnataka Wireless Station and that later he was shifted to Kurnool Division. They point out that the incumbents of A.E.E. and E.E. have changed and that the allegations he had levelled against superior officers have no basis. It is pointed out by them that he is levelling these baseless charges only to remain at Kurnool. It is also pointed out by them that

from a verification of family declaration it is found that the applicant does not have any children. The applicant had ^{merely} informed that he proposed to adopt a son but that no intimation ^{of adoption} has been received by them. They also questioned the statement of the applicant that his sickly old mother is getting treatment through him. It is pointed out by them that his mother is not living with him as is evident from the leave availed of by him from time to time to visit his mother at his home town Kodumuru. The respondents required the applicant to produce evidence of his mother's treatment and the applicant has not so far produced any evidence. As for the charge that people with longer stay are still being retained, it is stated that there is only one person who is being retained in the same station on compassionate grounds. It is stated that there is surplus staff in Kurnool Division and in the interest of service the applicant had to be transferred. As for the allegation that his appeal preferred on 21.5.90 has not been disposed of it is stated that his appeal which was preferred in the light of the decision of this Bench was considered and that it was in consideration of this appeal that the transfer order was ordered to be held in abeyance till 31.3.91.

4. The applicant had filed a rejoinder ^{repeating} stating that his refusal to perform certain menial work for Responder No.3 has resulted in the transfer. He also points out that he is adopting a daughter by name 'Jayalakshmi' and her education would be affected. He asserts that

.....4

his aged parents are living with him and his mother is suffering from ulcer of the stomach and general disability. He points out that besides Shri Hyder Sab there are others with longer stay than him continuing in Kurnool.

5. We have examined the case and heard the learned counsel for the applicant and the respondents. We find from the transfer order dated 30.4.90 that out of 16, 12 transfers are on mutual basis or at their own cost. Only 4 transfers are in public interest of which the applicant's is one. We find that the applicant is not the only one that has been transferred out of Kurnool but there are others who have been transferred to places even farther off than the applicant.

6. We find from the judgment dated 16.5.90 of this Bench of the Tribunal in O.A.No.418/90 that the applicant was directed to prefer an appeal against the order of transfer to the next higher authority and the respondents were directed that till the disposal of his appeal the transfer shall not be implemented. The order dated 21.12.90 by which the order of transfer was deferred till 31.3.91 is a decision of the Superintending Engineer, Krishna Kaveri Circle to whom the applicant had preferred an appeal dated 21.5.90 in the light of the decision of this Bench. Of course, it is not ^{specifically} clearly stated in the order that it is pursuant to the decision of this Bench but in the counter the respondents have

To

1. The Superintending Engineer,
Krishna Kaveri Circle,
5-9-210/B, Bl, Chirag Ali Lane,
Hyderabad-1.
2. The Executive Engineer,
Lower Krishna Division,
Central Water Commission,
Abid Manzil, A.C.Guards, Hyderabad.
3. Asst. Executive Engineer,
Lower Tungabhadra Sub-Division,
Central Water Commission
Kurnool;2, A.P.
4. One copy to Mr.P.V.venkata Rangam, Advocate, CAT.Hyd.
5. One copy to Mr. N.Bhaskara Rao Addl.CGSC.CAT.HKD.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One sapre copy.

stated that this decision was arrived at in pursuance of the decision of this Bench. We are satisfied that the direction of this Bench has been fully followed by the respondents and we therefore reject the claim of the applicant that his appeal is still to be disposed of. The applicant's claim of education of school-going children and the treatment of sickly old mother being adversely affected are not worth going into in view of the doubtful nature of the claims of the applicant. The applicant has also pointed out that there are persons with longer stay still being retained at Kurnool and this has been countered ^{that} with only one person in his unit with a longer stay who has been retained on compassionate grounds. We are satisfied that these are all administrative requirements.

7. The Hon'ble Supreme Court in the judgment reported in AIR 1989 SC 1433 had held that transfer from one place to another is generally a condition of service and the employee has no choice in the matter and that no Govt. servant or employee of public undertaking has legal right for being posted at any particular place. We are satisfied that there is no malafide intention in this transfer order and we therefore dismiss the application with no order as to costs.

(J.Narasimha Murthy)
Member(Judl).

(R.Balasubramanian)
Member(Admn).

Dated

14th June 91

For Deputy Registrar (T).

205
17/6

6

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V.C.

AND

THE HON'BLE MR. D. SURYA RAO: M(J)

AND

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

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 14.6.1991.

ORDER / JUDGMENT.

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

in

T.A. No.

W.P. No.

O.A. No.

287/91

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

