

(36)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 290/91.
T.A. No. --

Date of Decision:

S.Murali

Petitioner.

Shri K.Sudhakara Reddy

Advocate for the
petitioner (s)

Versus

Secretary, Ministry of Surface Transport,
Govt. of India, New Delhi & 4 others

Respondent.

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)

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HJNM
M(J)

HRBS
M(A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.290/91.

Date of Judgment 10-6-1991

S.Murali

.. Applicant

Vs.

1. Secretary,
Ministry of Surface Transport,
Govt. of India,
New Delhi.
2. The Director-General of
Shipping,
Jahaj Bhavan,
Wallchand-Herachand Marg,
Bombay.
3. The Principal Officer,
M.M.Dept.,
Anchorage Gate Building,
Rajaji Salai,
Madras-1.
4. The Surveyor-in-charge,
M.M.Dept.,
Port Area,
Visakhapatnam.
5. The Regional Officer(Sails),
Port Area,
Tuticorin,
Tamilnadu.

.. Respondents

Counsel for the Applicant : Shri K.Sudhakara Reddy

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

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Jud1)

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

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

This application has been filed by Shri S.Murali

under section 19 of the Administrative Tribunals Act, 1985

against the Secretary, Ministry of Surface Transport,

Govt. of India, New Delhi and 4 others.

2. The applicant has been working in the Mercantile Marine Department at Visakhapatnam since February, 1965. In September, 1983 he was promoted as U.D.C. and he did not accept it because it involved a transfer also. The applicant who is a polio victim of the right leg sustained a fracture in October, 1989 on his left leg also. His son is an Epiliptic patient and therefore the applicant does not want any transfer out of Visakhapatnam. According to the applicant, in spite of this background of his the respondents ~~first~~ issued an order of transfer to Madras in January, 1990. After his representation against such a transfer the same was cancelled. But, after a lapse of 3 months, the applicant was transferred again, this time to Tuticorin. He had represented against it and this was turned down by the respondents vide their letter dated 7.5.90. Against this, he had filed an O.A.No.452/90 which was dismissed for default. He had filed a Review Petition No.129/90 and in this a direction was given by this Bench to the respondents to consider his case in terms of the Govt. of India's letter dated 10.5.90. After this, the respondents had issued the impugned order dated 26.2.91. The applicant has approached this Tribunal with a prayer that his transfer order to Tuticorin be cancelled and that he be retained at Visakhapatnam itself.

3. The respondents oppose the prayer. It is their contention that the applicant had been at Visakhapatnam since February, 1965 itself and in April, 1990 he had given

an undertaking that he would be in a position to carry out the transfer order after one year. They also refute his exaggerated picture of domestic difficulties. It is pointed out by them that he is freely driving a motor-cycle in Visakhapatnam itself and that his earlier representation he had stated that ~~he was transferred to~~ Madras, a city which has got a number of fast travelling buses and electric trains but he being physically handicapped it was not possible for him to get in and get down from them for attending to duty and going home at Madras. It is their case that Tuticorin has no such problems as pointed out by the applicant as in the case of the Madras. It is also pointed out by them that a number of officials similar to the applicant had been transferred to Tuticorin, Cochin and Calicut.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. Clearly, the applicant belongs to a transferable category and has been in Visakhapatnam right from 1965 itself. In his representation in April, 1990 to the respondents he had brought out the following reasons:-

- (a) that he was physically handicapped in his right leg on account of polio,
- (b) that he had a fracture on his left leg and that the doctor had advised him to take rest for six months (This six months period is over long back),
- (c) that he has an old mother to be looked after,
- (d) that one of his sons is an Epileptic patient and that he requires parental care, and

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(e) that the education of his children will be affected by his transfer.

None of the above reasons is appealing to us.

He has been in Visakhapatnam for well over 26 years.

His left leg fracture must be alright now, long after the six months treatment period. The children's education and care of his old mother are common instances and cannot be a ground for staying a transfer order. As for the treatment of his son, Tuticorin being a sizeable industrial place sufficient medical facilities are available there. In the review application this Bench only directed the respondents to consider his representation in terms of the Govt. of India's O.M. No. AB-14017/41/90-Estt(RR) dated 10.5.90. In that letter it had been communicated that in respect of Group 'C' and 'D' posts (the applicant belongs to Group 'C') who have been recruited on regional basis and who are physically handicapped such persons may be given postings as far as possible, subject to administrative constraints, near their native places within the region. It can be seen ~~that~~ ^{from} this letter states that such requests as in the case of the applicant ~~could~~ ^{are to} be entertained only as far as possible and subject to administrative constraints. The applicant has been transferred within the same region ^{like others}. In the result we find no scope for interfering in this case more so in the light of the Supreme Court judgment

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A.I.R. 1989 (SC) 1433 according to which the transfer
order issued by the respondents is quite in order.

5. The application is ~~disposed of thus~~ ^{dismissed}, however, with
no order as to costs.

WS

(J.Narasimha Murthy)
Member (Judl).

R.Balasubramanian
(R.Balasubramanian)
Member (Admn).

Dated

10th June 91

Easlin Loura Reddy
Deputy Registrar (J)

To

1. The Secretary, Ministry of Surface Transport,
Govt. of India, New Delhi.
2. The Director-General of Shipping,
Jahah Bhavan, Wallchand Heerachand Marg, Bombay.
3. The Principal Officer, M.M.Dept.,
Anchorage Gate Building, Rajaji Salai, Madras-1
4. The Surveyor-in-charge, M.M.Dept.,
Port Area, visakhapatnam.
5. The Regional Officer (Sails) Port Area, Tuticorin, Tamilnadu.
6. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.Bench.
7. One copy to Mr. N.Bhaskar Rao, Addl .CGSC.CAT.Hyd.Bench.
8. One copy to Hon'ble Mr.R.Balasubramanian, Member (A)CAT.Hyd.
9. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
10. One spare copy.

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDRAABAD BENCH:HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V.C.
AND
THE HON'BLE MR. D. SURYA RAO: M(J)
AND
THE HON'BL. MR. J. NARASIMHA MURTHY: M(J)
AND
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 10 ~~26~~ -1991.

~~ORDER~~ JUDGMENT.

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

in

T.A. No.

W.P. No.

O.A. No.

290/91

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.

