

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1455-OF 1996

DATE OF ORDER: - 30th December, 1996

BETWEEN:

D.VEERA NAIK

.. APPLICANT

AND

1. The Director,
Intelligence Bureau,
(Ministry of Home Affairs),
Govt. of India, New Delhi,

2. The Joint Director,
Subsidiary Intelligence Bureau,
Taramandal Complex, 7th Floor,
Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI T.P.ACHARYA

COUNSEL FOR THE RESPONDENTS: SRI N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, ADMINISTRATIVE MEMBER

HON'BLE SHRI B.S.JAI PARAMESHWAR, JUDICIAL MEMBER

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri T.P.Acharya, learned counsel for the applicant and Shri N.R.Devaraj, learned senior standing counsel for the respondents.

2. The applicant was transferred from Hyderabad to Bhopal by the impugned order dated 29.8.96 (Annexure-I). He challenged this order in the Bench of this Tribunal by

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filings OA No.1204/96 which was disposed of on 11.10.96 directing R-1 in that OA to dispose of his representation dated 11.9.96 in accordance with law taking due note of the circumstances mentioned by him in that OA. It was also directed that "till then the applicant shall be allowed to continue on leave in accordance with the rules if he applies for the same". That direction was complied with by issuing the impugned memo dated 13.11.96 (Annexure-5) wherein the Department has stated that he should carry out his transfer to Bhopal.

3. The present OA is filed for setting aside the transfer order dated 29.8.96 and the consequential memo dated 13.11.96 of R-1 by holding it as arbitrary, illegal, unconstitutional and violative of principles of natural justice.

4. The main contention of the applicant in this OA is that he has a lot of work to perform at Hyderabad and he has school going children also and hence it will be difficult for him to carry out his transfer at this juncture. However, after hearing this case for some time, we enquired from the learned counsel for the applicant whether he will carry out his transfer after the end of the scholastic session viz, from 1.4.97. The learned counsel for the applicant fairly submitted that he can be relieved on the afternoon of 31.3.97 so as to enable him to join at

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Bhopal after availing the joining time.

5. The learned counsel for the applicant also attributes some motive for issue of the transfer order. However, he has not impleaded proper and appropriate parties to examine the malafides attributed in his transfer. Hence, we reject that contention.

6. The learned senior standing counsel submitted that the applicant has been already relieved and hence he has to join at Bhopal. But a sympathetic view has to be taken in this connection. Transfer has to be effected helping the employee to the extent possible. Just because he was relieved it does not mean that he cannot be put back to duty for a period of another three months and then relieve him to report at Bhopal after the expiry of that period. Hence the relief of the applicant should not stand in his way to put him back in service at Hyderabad for a period of three months and then relieve him to Bhopal in accordance with the transfer order already issued.

7. In the circumstances, the following direction is given:-

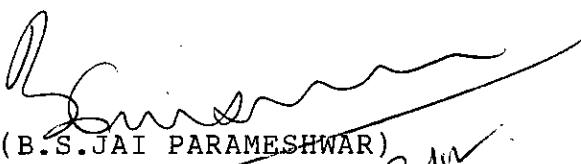
R-1 should retain the applicant in service at Hyderabad from 1.1.97 till the afternoon of 31.3.1997. Thereafter the applicant may be relieved to carry out his transfer to Bhopal permitting him to avail joining time from 1.4.97. The period from his date of relief till he is



(B)

put back to duty at Hyderabad on 1.1.97 should be decided as leave admissible to him as per the rules.

8. The OA is ordered accordingly at the admission stage itself. No order as to costs.

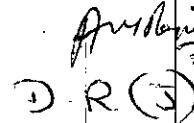

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

30th


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: - 30th December, 1996
Dictated in the open court.

vsn


D.R.(S)

.54.

O.A. NO.1455/96

Copy to:

1. The Director, Intelligence Bureau,
(Min. of Home Affairs), Govt. of India,
New Delhi.
2. The Joint Director, Subsidiary Intelligence Bureau,
Taramandal Complex, 7th Floor, Hyderabad.
3. One copy to Mr.R&T.P.Acharya, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One duplicate copy.

YLKR

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9/1/97

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

Ep
The Hon'ble Shri B.S.Jai Parameshwar H

DATED: 30/12/96 (J)

ORDER/JUDGEMENT
R.A/C.P./M.A. NO.

in

O.A. NO.

1455/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

1/10/97

