

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A.No.1048 of 1999.

Date of Decision: 29-9-1999

Between:

G.R.N. Tagore.

..Applicant

A n d

1. The Director General,
Geological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta-700 016.
2. The Deputy Director General (Pers),
Geological Survey of India, 27,
Jawaharlal Nehru Road,
Calcutta-700 016.
3. The Senior Deputy Director General,
Geological Survey of India,
Southern Regional Office, Hyderabad. ..Respondents

COUNSEL FOR THE APPLICANT : Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS : Mr.P.Phalguna Rao

CORAM:

THE HON'BLE SRI JUSTICE D.H. NASIR, VICE CHAIRMAN

: O R D E R :

(PER HON'BLE SRI JUSTICE D.H. NASIR, VICE CHAIRMAN)

1. The facts of this case lie in a very narrow compass.
2. A transfer order transferring the applicant from Southern Region of the Geological Survey of India at Hyderabad to AMSE Wing, Bangalore, is sought to be enforced against the applicant by the impugned Order passed on 3-5-1999. The ^{that} applicant's case is ^{that} when the transfer order was passed on 14/19-8-1997, he was working as a Junior Chemist, but he was promoted to the post of Senior Chemist during the intervening period. Therefore, according to the applicant the grounds for transfer could not be the same after the applicant was so promoted as Senior Chemist. We are not disfavourably inclined to accept this submission made on behalf of the applicant. The administrative convenience which would have necessitated the transfer of the applicant when he was a Junior Chemist would and could not have been the same after the applicant's promotion. The respondents, however, oppose the submission on the ground that the applicant at his own request on grounds of health was allowed to continue at his original post at Hyderabad, which was evident from the letter dated 13-4-1999 (Annexure.A-3, page 18 of OA), by which it was communicated to Senior Dy.Director General, Southern Region, GSI, Hyderabad, that the applicant's order of transfer was deferred up to March, 1999 and further upto 15-4-1999. By a previous letter dated 10/11-3-1998, the Director, Geology, informed the Dy.Director General, GSI, Hyderabad, that the applicant i.e., G.R.N., Tagore, Chemist (Sr.) of Southern Region applied for cancellation of his transfer to AMSE Wing, ^{that} Bangalore on health grounds. This ^{had} been reviewed earlier and it was further deferred upto 31-3-1999. The Director, Geology, therefore, called upon the Deputy Director General, GSI, Southern Region, Hyderabad, that Sri Tagore (applicant) should be released from Southern Region, Hyderabad, on expiry of the period extended upto 31-3-1999.

3. However, it is significant to note that by an endorsement made on the applicant's representation dated 20-2-1998, it was stated that,

"Two Chemist (Sr.) from S.R.Chemical Division have already been transferred. Shri Tagore has been promoted to Chemist (Sr.) very recently and has taken over charge at S.R. Chemical Division. He met some serious accident few months back and is still under treatment. Another point I like to mention here that one Chemist (Sr.) who was looking after the needs of the Chemical Division is going to retire on superannuation in July, 1998. At least some personnel should be in the Division who are well-versed in the activities of the Division to run the Lab. Efficiently. Shri Tagore is well-versed in the same. I recommended Shri Tagore's retention in S.R. Chemical Division which will help to run the Lab. Work efficiently....."

4. On a further representation made by the applicant on 14-12-1998, the Dy.Director General (Geochem), GSI, Southern Region, Hyderabad, made an endorsement on 16-12-1998 and forwarded the representation for sympathetic and favourable consideration by stating as follows:-

"In fact S.R. Chemcial Division is running with shortage of personnel as per the work-load of the Region is concerned. The Chemist of the division was under unprecedeted pressure for the last few years due to the GSI-BRGM Project. Anyway they shouldered the same with lot of dedication to their work. Actually we require some more Chemists in addition to our present strength to cope with the demand of the Region as a whole. The Division will be poorer to the contrary if any more Chemist from this division is transferred."

5. Thereafter, it seems that the applicant proceeded on leave by submitting an application on 28-6-1999. However, by an order dated 19-5-1999, the Administrative Officer, GSI, informed the applicant that "you have been released from this office with effect from 3-5-1999 (AN), vide this Office Order No.1367/A19011/106/GRNT/85/19, dated 3-5-1999. Hence, you are advised to submit

AO

the leave application to DDG, GSI, AMSE Wing, Bangalore and the applicant's leave application was returned along with the said Order.

6. Even if we believe that on the applicant's own request his transfer was withheld, it cannot be ~~gainsaid~~^{disputed} that the factors accounting for the applicant's transfer when he was working as Junior Chemist, would have undergone a change and therefore it would not be legal and proper to force the applicant to proceed on transfer at this stage when he has been promoted as Chemist (Sr.).

7. As a matter of fact the exigencies of the situation as revealed from the endorsement made by the Officers on the applicant's representations dated 20-2-1998 and 14-12-1998, demanding that the applicant should be detained at Hyderabad and therefore I am not convinced that the transfer in question under the changed circumstances could still be persisted under the pretext of administrative convenience. However, the respondents cannot be precluded from issuing a fresh transfer order to the applicant if there has been any change in circumstances necessitating the transfer of the applicant to Bangalore or at any other place as may be deemed fit by the respondents if the cause of administrative convenience warrants such transfer.

8. Hence, the impugned Order dated 3-5-1999, relieving the applicant from the post of Chemist (Sr.) at Hyderabad is hereby quashed and set aside and the applicant is directed to be retained at Hyderabad as Chemist (Sr.). The respondents, however, by virtue of this order, shall not be precluded from transferring the applicant to any other suitable place if the exigencies of the situation so demand and new administrative convenience factor comes into being. Needless to say that it would not be incumbent upon the respondents in keeping with the present practice to reveal the cause of transfer if and when such transfer order is issued. But at least the record maintained by the respondents should not be totally silent about the point of administrative

convenience or public interest or exigencies of the situation prevailing at the relevant time.

9. The OA is allowed accordingly. No costs.

D.H. Nasir
(D.H. NASIR)
VICE CHAIRMAN

DATED this the 29th day of September, 1999

D.H. Nasir

DSN

:8:

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: HYDERABAD BENCH
AT: HYDERABAD

O.A. NO: 1048 OF 1999

BETWEEN :

G.R.N. Tagore ... APPLICANT

AND

The Director General,
Geological Survey of India,
Calcutta and others.

... RESPONDENTS

REJOINDER FILED BY THE APPLICANT
TO THE REPLY STATEMENT
FILED BY THE RESPONDENTS.

FILED FOR : APPLICANT

FILED ON : 22.8.1999

FILED BY :
SANKA RAMA KRISHNA RAO,
K. PARVATHI
ADVOCATES,
1-8-549/C, 11ND FLOOR,
CHIKKADPALLY,
HYDERABAD - 500 020.

COUNSELLS FOR THE APPLICANT.

may be filed
25/8/99

7/9/99

1ST AND 2ND COURT

COPY TO :-

1. HON'BLE M. J. (A)
2. HON'BLE M. J. (S)
3. HON'BLE M. J. (C)
4. D.R. (A)
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE - CHAIRMAN ✓

THE HON'BLE MR.R.RANGARAJAN :
MEMBER (ADMN.)

THE HON'BLE MR.S.S.JAI PARAMESWAR
MEMBER (JUDG.)

* * *

DATE OF ORDER: 29/9/99

MA/RA/CP.NO.

IN
CA. NO. 1048/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

(8 copies)

केन्द्रीय अधिकारिक अधिकारिक
Central Administrative Tribunal
प्रेषण / DESPATCH

30 SEP 1999

HYDERABAD BENCH