

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH  
HYDERABAD

O.A.NO.1136 OF 1999.

DATE OF DECISION: 8.9.1999

BETWEEN:

Dr. S.S.Y.H.Qadri.

....Applicant

A n d

1. The Director General,  
Indian Council of Medical Research,  
Ansari Nagar, New Delhi-110 029.

2. The Director,  
National Institute of Nutrition (NIN)  
Jamai Osmania, Hyderabad-500 007.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.M.M.Goud

COUNSEL FOR THE RESPONDENTS :: Mr.V.Rajeshwar Rao

CORAM:

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

: ORDER :

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

1. By an Order dated 17-6-1999, the National Institute of Nutrition, Indian Council of Medical Research, Hyderabad, the applicant Dr.S.S.Y.H.Qadri, was transferred with immediate effect to the Pathology Division of the Institute. He was directed by the respondents to report to Dr.B.Sesikeran, Assistant Director and Incharge of Pathology Division. The applicant was further directed to handover whatever material and equipment he had in his possession to Mr.S.Hariharan, Deputy Director, Officer Incharge of NCLAS.

2. Opposing vehemently the plea advanced by the applicant that he was not liable to be transferred from his existing position, it was urged by the learned Counsel Mr.Venkata Sastry for Mr.V.Rajeshwar Rao for the Respondents that it was a misnomer to say that the applicant was transferred and secondly that there were no basis for an allegation that the so-called transfer was a malafide transfer. These are the two main points which are required to be considered for arriving at a conclusion in this OA. The question whether the applicant possessed any special qualification which, on his alleged transfer, would be rendered meaningless and ineffective and the expertise possessed by the applicant would be exposed to wastage also needs elucidation.

3. It is not and it cannot be disputed that the alleged transfer was not a transfer at all because the applicant had been merely shifted from one room to another room along with his seat and table. It is well settled that if the transfer is within the confines of the City or Town or Village, it cannot be termed as transfer and, therefore, the usual grounds taken against transfer of Government Servants cannot straightaway be applied to the transfer which is questioned before us. To be more elaborate, it may be stated that the applicant is shifted from the National Centre for Laboratory Animal Sciences building to the main building of the Institute in the same Campus beyond the distance of 50 yards. We are not therefore inclined to accept the submission made by the learned Counsel Mr.Goud on behalf of the Applicant that this is a case of transfer.

4. As far as the allegations of transfer being malafide are concerned, the applicant states on page.4 of the OA that his immediate Supervisor as well as Reporting Officer Mr.S.Hariharan, who was also a Deputy Director-cum-Officer Incharge did not have any Veterinary qualifications. The applicant further states that he is working under him and that there have been differences between them. He (Mr.S.Hariharan) gave preference, showed favouritism and regionalism to the persons belonging to his State, as against the applicant who belonged to Andhra Pradesh. Further according to the applicant, he was also well qualified having Masters Degree and having been a Gold Medalist and that he was a dedicated Veterinarian specialised in Pathology to diagnose and treat animals and was also committed to maintain animal health and relieve them of their sufferings.

5. According to the applicant the rules and regulations of the Experiments on Animals (Control and Supervision) Rules, 1998 and also under Sub.Section (1) of Section 17 of the PCA Act, 1960, the animals were required to be subjected to strict health screening as per Standard Veterinary Clinical Pathology Protocols before they could be used for research and that the representation given by him was purely in the interest of animals and in the interest of public at large.

6. It is pertinent to note that Mr.S.Hariharan, against whom the allegations of malafides have been levelled by the applicant in this OA, has not been joined as party-respondent thereby depriving Mr.Hariharan from dealing with the allegations made by the applicant in this OA. On that ground alone the allegation that the transfer was malafide could straightaway be rejected.

7. As far as the claim of expert knowledge and expert qualifications held by the applicant are concerned, it is pointed out by the learned Counsel for the Respondents

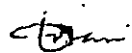
that the applicant's post was a research post covering advancement of research study relating to Pathology which was a separate and codified branch of medical sciences. Further according to the respondents the management part of research is the responsibility of the Scientist concerned. The applicant was holding the post of Research Officer (Veterinary Pathology) in Group 'A' of Scientific cadre and that he was duty bound to undertake research studies for the advancement of science under the control and guidance of competent Scientist only. In keeping with <sup>the</sup> less ability of the applicant, he was allowed to undertake and conduct Autopsy studies including Histo-pathological and other studies under the proper control and guidance of the Pathologist and Dr.Sesikaran, who was one of the renowned Pathologists and Head of the Department of Pathology of National Institute of Nutrition and National Centre for Laboratory Animal Sciences at Hyderabad, right from the day he joined his service as Research Officer (Veterinary Pathology).

8. Although it is difficult for us to express any opinion whether the talent and qualifications possessed by the applicant <sup>are</sup> would be exposed to wastage on account of the change in his duties, the important point to be borne in mind, as asserted by the Respondent is that the change was made for administrative convenience, the same being an incidence of service. The fact that the transfer which is assailed by the applicant in this OA was for administrative convenience stands disclosed from the open submission made by the learned Standing Counsel for the Respondents that the shifting of the sitting arrangement from one place to another in the same premises had been done keeping in view the situation of differences between the applicant and the Officer Incharge Sri Hariharan. The applicant was posted under the control of Dr.Sesikaran so as to avoid any friction in the discharge of the respective functions of the concerned Scientists. In fact according to the learned Standing Counsel for the Respondents the applicant submitted before the 2<sup>nd</sup> respondent in person and gave assurance that he would carry out his responsibilities satisfactorily under the administrative control of Dr.Sesikaran and accordingly he joined on 21-6-1999. The

administrative convenience is amply demonstrated in the situation being as stated above.

9. Keeping the above facts and circumstances of this case in view, we do not find any cause to interfere with the impugned action of the respondents.

10. In the result the OA is dismissed. No order as to costs.

  
( D. H. NASIR )  
VICE CHAIRMAN

DATED: this the 5<sup>th</sup> day of Sept., 1999

  
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