

6

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::GUWAHATI-5.

O.A.No. 282/97 of 1997

DATE OF DECISION..6.3.1998.....

!! Shri L.S. Das

(PETITIONER(S))

Ms N. D. Goswami

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr G. Sarma, Addl. C.G.S.C.

THE HON'BLE MR JUSTICE D. N. BARUAH, VICE-CHAIRMAN
THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman.



5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.282 of 1997

Date of decision: This the 6th day of March 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

Shri Lobendu Sekhar Das,
Inspector, Customs Preventive Force,
Office of the Superintendent,
Customs Preventive Force, Silchar.

.....Applicant

By Advocate Ms N.D. Guswami.

- versus -

1. The Union of India, represented by
The Secretary to the Ministry of Finance,
Department of Revenue,
New Delhi.
2. The Commissioner of Customs (Preventive),
North Eastern Region,
Shillong.

.....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

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O R D E R

BARUAH. J. (V.C.)

In this application the applicant has challenged the Annexure D order of transfer dated 29.10.1997 and also Annexure F order dated 11.12.1997 passed on the representation of the applicant.

2. The case of the applicant is that his sister, Purnima Das, is suffering from serious renal problem and his wife is also a patient of 'chronic arthritis bealdes' and peptic ulcer. Besides this, the minor son, Jaydeep Das, is also a patient of neurology. Under these circumstances the the applicant's presence in Silchar is necessary, because he gets the facilities of medical treatment in the Silchar

22

Medical College. Therefore, he submitted a representation against the order of transfer dated 29.10.1997. The representation was disposed of by Annexure F order dated 11.12.1997 rejecting the prayer of the applicant. Hence the present application.

2. I have heard Ms N.D. Goswami, learned counsel for the applicant and Mr G. Sarma, learned Addl. C.G.S.C. Ms Goswami submits before me that under the compelling circumstances it becomes absolutely difficult for the applicant to move out of Silchar. The contention of Ms Goswami is that while disposing of the representation of the applicant, the authority did not apply its mind which is evident from the Annexure F order dated 11.12.1997, inasmuch as the said order does not indicate that all the grounds stated by the applicant in his representation had been taken into consideration by the authority. The learned counsel further submits that it is true that as an employee the applicant has an obligation to carry out the transfer order, but the circumstances under which the applicant is now situated requires stay of the transfer order just to help his family. The learned counsel further submits that the applicant's sister needs constant attention of the applicant and these things had not been considered by the authority while considering his representation.

3. Mr G. Sarma, on the other hand, submits that an order of transfer should normally not be interfered with unless it is actuated by malafide or is contrary to the statute. Mr Sarma further submits that as there is no allegation of malafide action or violation of the rules, this court may not interfere with the order of transfer. The submission of the learned Addl. C.G.S.C. cannot be disputed. However, the applicant has got the right to make representation to persuade the authority and

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7

if such representation is made the authority is required to consider it and come to a conclusion by passing a reasoned order. In this case I find that this is lacking. Therefore, I dispose of this application with direction to the respondents to consider the representation of the applicant afresh and thereafter pass a reasoned order. The applicant may also file a fresh representation giving details of his difficulties in carrying out the transfer order. If such representation is filed within 15 days from today this shall also be considered by the respondents and dispose of the said representation also as early as possible, at any rate within a period of three months from the date of receipt of this order. Pending disposal of this representation the order of transfer shall not be given effect to.

4. The application is accordingly disposed of. However, in the facts and circumstances of the case I make no order as to costs.


(D. N. BARUAH)
VICE-CHAIRMAN