

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No.....278..... of 1998

DATE OF DECISION. 27.9.2000...

Shri D.L. Vaid

PETITIONER(S)

Mr. M. Chanda & Mrs. N.D. Goswami.

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors

RESPONDENT(S)

Mr. B.C. Pathak, Addl. CGSC.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, 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

(D.N. CHOWDHURY)
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO.278 OF 1998

Date of decision - the 27th day of September, 2000.

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

Shri D.L. Vaid,
Assistant Director,
Enforcement Directorate,
Ministry of Finance,
Government of India,
Zonal Office, Guwahati,
Bye Lane No.4, Rajgarh Road,
Guwahati.

- APPLICANT

By Advocates Mr. M. Chanda & Mrs. N.D. Goswami.

- Versus -

1. Union of India
through the Secretary to the
Government of India,
Enforcement Directorate (FERA),
Government of India,
Headquarter Office, New Delhi.
2. Director,
Enforcement Directorate (FERA),
Government of India,
Headquarter Office,
New Delhi.

- RESPONDENTS

By Advocate Mr. B.G. Pathak, Addl. C.G.S.C.

JUDGMENT AND ORDER
(ORAL)

The controversy made in the application pertains to
the transfer and posting of civilian employees of the Central
Government serving in the North Eastern Region to a station of his

choice ...

choice in terms of the Office Memorandum issued under letter No. 20014/3/83-E.IV dated 14.12.1983. The aforesaid policy was introduced by the Central Government with a view to attract and retain the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram. It has been stated that the said policy is also extended to the Union Territory of Andaman & Nicobar Islands. The Central Government for that purpose, constituted a committee under the Chairmanship of the Secretary, Department of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in the region and to suggest suitable improvement. As per the recommendation of the committee, it was decided by the Central Government that the Central Government civilian employees who have rendered more than 10 years of service are entitled to choice station posting on completion of two years of fixed tenure in the North Eastern Region and those Central Government civilian employees whose length of service is less than 10 years are entitled to choice station posting on completion of three years of fixed tenure in North Eastern Region. As^{per} the policy mentioned above, the officers on completion of the fixed tenure of service as indicated in the policy may be considered for posting to a station of their choice as far as possible.

2. The applicant in this case, who is working as Assistant Director in the Enforcement Directorate of the Government of India, Ministry of Finance was transferred and posted as Assistant Director to the office of the Enforcement Directorate (FERA) at Guwahati Sub-Zonal office vide communication No.F.16/2/95-Ad IC dated 5th May, 1995. The Director Enforcement, New Delhi was advised by the Ministry of Finance that one of the Assistant Directors shall be transferred from Calcutta to Guwahati. According to the department as mentioned in the review application, the transfer was made by the competent authority on administrative grounds to enquire into and investigate the charges against him relating to his asset.

3. Mr. B.C. Pathak, learned Addl. Central Government Standing Counsel produced before me records pertaining to the allegations of charges of acquirement of disproportionate income and property other than by lawful means. Mr. Mr. Chanda, learned counsel for the applicant, however, submitted that the transfer order did not indicate about any such grounds. Mr. Chanda submitted that the policy of the Central Government regarding transfer and posting of the civilian employees serving in the North Eastern Region is also applicable to the applicant. For more than five years, the applicant is compelled to serve in this region. The allegations which have been mentioned are yet to be enquired into and in the circumstances, the applicant cannot be denied from getting the benefit of the policy as submitted by Mr. Chanda, the learned Advocate for the applicant.

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4. The Government instruction sought to be relied on by the applicant is meant to attract the persons from outside the North Eastern Region to work in the North Eastern Region because of its inaccessible and difficult situation. A Government servant/employee for that matter has no legal right to demand for place of posting. The applicant holds a transferable post. In the absence of any special condition provided in the service condition, an employee cannot have a choice posting. The records produced by Mr. B.C. Pathak, learned Addl. G.G.S.C. are revealing that in such a situation, the materials on record do not support the claim of the applicant for providing him the liberty for a choice posting. The Central Bureau of Investigation has already undertaken to investigate and to probe into the allegations of acquisition of asset acquired by the applicant and the members of the family from the known or unknown sources.

5. In the circumstances, it would not be appropriate for this Tribunal to accept the plea of the applicant for a choice posting and to jeopardise the process of investigation/enquiry and the office memorandum dated 14th December, 1983 in the circumstances cannot be allowed to operate overlooking the administrative exigency and public interest.

6. The application is accordingly, liable to be rejected and the same is rejected. It may be pointed out herein that the officer has spent for more than 5 years of service in the North Eastern Region. ~~The dismissal of the~~

contd ...

application should, however, not preclude the authority to consider the case of the applicant for his transfer to any other suitable or convenient place other than those places where there is possibility of interference in the process of investigation and/or enquiry.


(D.N. CHOWDHURY)
VICE-CHAIRMAN

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