

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.2878 OF 2002

New Delhi, this the 17th day of December, 2002

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HON'BLE SHRI M.P. SINGH, MEMBER (A)

Nahar Singh,  
Assistant Engineer (Civil)  
S/o late Shri Laiyak Ram,  
Civil Construction Wing,  
All India Radio/Parsar Bharti,  
Aligarh (U.P.).

Residential Address:  
House No.2/74, New Begum Bagh,  
Aligarh. (U.P.).

....Applicant

(By Advocate : Shri D.N. Sharma)

Versus

1. Union of India  
(through:- The Secretary to the  
Government of India),  
Ministry of Information & Broadcasting,  
Parsar Bharti Board/  
Broadcasting Corporation of India,  
Shastri Bhawan, New Delhi.
2. The Chief Engineer (Civil),  
Civil Construction Wing, All India Radio,  
6th Floor, Sochna Bhawan, C.G.O. Complex,  
Lodhi Road, New Delhi.
3. The Superintending Engineer (Civil)  
Civil Construction Wing, All India Radio,  
3rd Floor, Sochna Bhawan, C.G.O. Complex,  
Lodhi Road, New Delhi.
4. The Executive Engineer (Civil)  
Civil Construction Wing, All India Radio,  
3rd Floor, Sochna Bhawan, C.G.O. Complex,  
Lodhi Road, New Delhi.

....Respondents

(By Advocate : Shri K.C.D. Gangwani)

ORDER (ORAL)

By Shri M.P. Singh, Member (A) :

By filing the present OA, the applicant has  
sought the following reliefs:-

"(a) that the relieving order meant for his  
transfer to an undisclosed place, not



preceded by a formal transfer order, may kindly be ordered to be set aside by this Hon'ble Tribunal and applicant allowed to continue in his post and position till re-deployment of subordinate staff and transfer of assets of the Sub-Division, as per the directions of higher authorities are completed.

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- (b) that the respondents may further be directed to issue proper transfer order of applicant after calling for choice of stations, in order of his preference."

2. The admitted facts of the case are that the applicant is working as Assistant Engineer (C) Civil Construction Wing, AIR, Aligarh. The CCW, AIR, Sub-Division Aligarh has been closed vide order dated 28.3.2002 passed by the Director General, AIR, New Delhi and as per the directions of Superintending Engineer (C) vide letter dated 11.10.2002, the applicant stands relieved on 21.10.2002 with the instructions to report to Chief Engineer (C)-I, CCW, AIR, New Delhi for further posting order. Aggrieved by this he has filed the present OA, claiming the aforesaid reliefs.

3. Heard learned counsel for the rival contesting parties and perused the material placed on record.

4. Learned counsel for the applicant has stated that no transfer order has been passed by the respondents. Although a decision has been taken to close down CCW, AIR Sub-Division, Aligarh but other persons in that wing are still continuing to work at Aligarh. He has also submitted that the order dated



17.10.2002 has been passed by the Assistant Engineer (Civil) asking the applicant to handover the charge pertaining to Aligarh Sub-Division as early as possible, but no physical handing/taking over has taken place as Mr. V.K. Rai, Assistant Engineer has not physically reported at Aligarh to take over proper charge from the applicant. The aforesaid letter has been issued by the Assistant Engineer from Lucknow where he is working. The applicant has also filed Misc. Application being M.A. No.2754/2002 stating that no transfer order has been issued by the competent authority and there are contrary dates of his relieving by different authorities. It is also stated that direction be issued to the respondents to arrange payment of salary and other entitlements to the applicant regularly and applicant allowed to continue with his present posting and position at Aligarh till the OA is finally disposed of.

5. On the other hand, learned counsel for the respondents has stated that since the CCW, AIR, Sub Division Aligarh has been closed, the applicant has been relieved from his present duties to report to Chief Engineer (C)-I, CCW, AIR, New Delhi for his further posting. At present there is no work for the applicant and in view of the closure of the said wing, he cannot be continued to work at Aligarh. He has also pointed out that the order passed by the Executive Engineer (C) dated 17.10.2002 (Annexure A/1) clearly states that the aforesaid order has been issued in pursuance of the order issued by the



Director General, AIR on 28.3.2002 and, therefore, it cannot be said that the aforesaid order has not been issued by the competent authority. In view of the preceding paragraph, the present OA deserves to be dismissed.

6. I have carefully considered the rival contentions of the parties and perused the material placed on record.

7. The CCW, AIR, Sub Division Aligarh has been closed and, therefore, the applicant cannot insist upon to continue to work at Aligarh when there is no work. The transfer is an incident of service and it is also not in dispute that the applicant has the All India transfer liability. It is a settled legal position that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. While ordering the transfer, there is no doubt that the authority must keep in mind the guidelines issued by the Government on the subject and if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines issued by the Government provide that as far as possible, husband and wife must be posted at the same place. The said guideline however does not

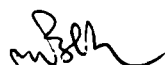


(5)

confer upon the Government employee a legally enforceable right.

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In this case, the aforesaid transfer order has been issued by the respondents as the applicant has been relieved from Aligarh to report to Chief Engineer (C)-I, CCW, AIR, New Delhi for further posting. The applicant, therefore, cannot claim as a matter of right to continue to work at Aligarh after he has been asked to hand over the charge to another person. I, therefore, in view of this position, find that there is no ground to interfere with the aforesaid transfer order dated 17.10.2002 issued by the respondents. The present OA is, therefore, bereft of any merit and is accordingly dismissed. There shall be no order as to costs. The interim orders passed on 11.11.2002 in favour of the applicant stands vacated.

  
(M.P. Singh)  
Member (A)

/ravi/