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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.148/2003 in
MA No.1109/2003
OA No.3346/2001

New Delhi this the 12th day of November, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

A.N. Rai

-Applicant

(By Advocate Ms. Harvinder Oberoi)

-Versus-

Union of India & Others

...Respondents

(By Advocate Sh. S. Mohd. Arif)

O R D E R

By Mr. Shanker Raju, Member (J):

By this RA applicant has sought recalling of order dated 24.4.2003, whereby the request of applicant for cancellation of transfer from News Service Division to National Channel, AIR was rejected.

2. Learned counsel for applicant Ms. Harvinder Oberoi contends that the order suffers from an error apparent on the face of record, as applicant who was General Secretary of an Association, which is recognized and has been invited by the Prasar Bharti in its meeting vide letter dated 1.10.2002 shows that the same is recognized and in view of the guidelines a General Secretary has to be brought to the Headquarters and is not subject to any transfer liability.

3. Another ground to contend is relying upon para 9 of the transfer policy where it is applicable when the transfer is from one station to another. It is contended that each station is different and independent of each other and the word 'station' does not construe a geographical station but as an office or transmission

station. As such, sending applicant from News Service Division to National Channel, AIR having two different establishments the transfer policy does not prefer such a transfer.

4. On the other hand, respondents' counsel Sh. S.M. Arif vehemently opposed the review and stated that review cannot be resorted to re-argue or re-agitate the matter. However, it is contended even assuming that applicant was a General Secretary of the recognized union yet the interpretation given in the order as to station in category 'A' and 'B' as well. Even if the finding of the Tribunal is erroneous the same cannot be subject matter of the review.

5. Shri Arif states that transfer of applicant was inter-zonal transfer made on request basis. He was transferred to News Service Division on 30.9.1999 on account of certain complaints. He was placed at the disposal of cadre controlling authority in another unit of AIR and was transferred to News Centre, AIR on 28.4.2003. It is a transfer to another unit of AIR within the same city by the competent authority.

6. In the rejoinder applicant has re-iterated his pleas taken in the OA.

7. I have carefully considered the rival contentions of the parties and perused the material on record. In so far as maintainability of RA is concerned, as per the following decisions the law is crystalised that the review is maintainable only on an error apparent on the face of the record, which strikes on the face. A long

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drawn process to derive such an error apparent would not be an error apparent. It is also maintainable on discovery of new material, which even after exercise of due diligence was not in possession of the parties and could not be produced at the relevant time.

- i) Chandra Kanta & Anr. v. Sheik Habib, AIR 1975 SC 1500.
- ii) Meera Bhanja v. Nirmala Kumari Choudhury, AIR 1995 SC 455.
- iii) K. Ajit Babu & Ors. v. Union of India & Others, 1998 (1) SLJ 85 (SC).

8. In so far as the status of association of which applicant is an office bearer assuming the same is recognized applicant's documents of Prasar Bharti inviting aforesaid union for informal discussion, yet the interpretation given to the word 'station' in the transfer policy may be an erroneous view taken by the Court but it is not amenable to judicial review, for which the appropriate remedy is to file appropriate remedy before the appellate court.

9. In the result, as the scope of review is limited, I do not find any error apparent on the face of record to warrant any review of the order. Accordingly, RA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)