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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(16)

OA 2581/2001

New Delhi, this the 15th day of January, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Omprakash
S/o Late Shri Lal Chand
R/o 1911/19, Govindpuri Ext.
Kalkaji, New Delhi - 110 019.

...Applicant

(By Advocate M.K.Bhardwaj)

V E R S U S

UNION OF INDIA : THROUGH

1. The Secretary
Ministry of Information & Broadcasting
Shastri Bhawan
New Delhi.

2. Chief Executive Officer
Prasar Bharti
Broadcasting Corporation of India
Doordarshan Bhawan, New Delhi.

3. Basharat Ahmed
Director,
Doordarshan Kendra
Sansad Marg, New Delhi.

...Respondents

(By Advocate Shri S.M.Arif)

O R D E R

By Hon'ble Shri Govindan S.Tampi,

Applicant in this OA challenges the order dated 20.09.2001, passed by the respondents transferring him from Delhi to Chandigarh.

2. Heard S/Shri M.K. Bhardwaj and S. Mohd. Arif, learned counsel for the applicant and the respondents respectively.

3. The applicant was originally appointed as Film Processor, but as the said cadre became surplus, he among others, was adjusted against the vacant posts of Film/Video Editors in the pay scale of Rs.5000-8000/-. While effecting the adjustment it was

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also directed that the adjusted employees have to be trained in Film Video Editing. When a new T.V. Station was opened at Chandigarh a post of Editor was created in the station and the applicant was posted on transfer from Delhi against the said vacancy, by order dated 01.05.2001. He was also relieved w.e.f. 14.05.2001 ignoring the facts that he was not experienced or trained in video editing (as his line was film processing) and that he was a patient of Vertig Cervical. Accepting his representation the transfer order was cancelled on 30.07.2000 and in his place one Sh. A.K. Raina was posted to Chandigarh. Applicant rejoined at Delhi on 01.08.2001. Director, Doordarshan Kendra (respondent No.3), however, recommended that Sh. Raina be retained in Delhi, as he was one of the few who could handle non-linear editing work, though Sh. Raina was neither an expert nor had received any training in non-linear editing. This resulted in the impugned order dated 20.09.2001, once again transferring the applicant with his post to Chandigarh. Hence, this OA.

4. Impugned order has been stayed on 27.09.2001. Grounds on which the application is assailed are as below :-

i) impugned transfer order has been issued only to help Sh. A.K. Raina, as the applicant, being not an experienced hand experienced could not have been posted as Film Video Editor in Chandigarh, a newly setup station where only an experienced individual should have been posted

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ii) respondent's view that Sh. A.K. Raina, who was posted in Delhi was an expert in non-linear editing was wrong;

iii) neither exigencies of service nor public interest had played a part in the applicant's transfer;

iv) Applicant's health record was poor and the transfer affected both himself and his family hard.

v) applicant's transfer has been totally malafide and was caused by the respondent who was keen to help Shri A.K. Raina.

The above was forcefully reiterated by Sh. M.K. Bhardwaj, learned counsel for the applicant who also relied upon the decisions of the Ernakulam Bench of the Tribunal in Y. Kurikes^v Vs. Sr. Supdt. of Telegraph Traffic Tum & Ors. in OA No. 484/93 dated 28.10.1993 and Pradip Kumar Banerjee Vs. UOI in OA No. 1319/1992 dated 12.07.1993 and prayed that the OA be allowed.

5. Appearing on behalf of the respondents Sh. S. Mohd. Arif, learned counsel strongly rebuts the pleas raised on behalf of the applicant. Firstly, the application was vitiated due to non-joinder of parties who are likely to be affected by the ultimate decision if it was in favour of the applicant. Transfer of the applicant having been ordered in public interest cannot be interfered with by the Tribunal. While becoming Film Video Editor, the

applicant had agreed to serve in any part of India and he cannot now go back on that. Shri Raina who was posted to Chandigarh was brought back as he was one of the most renowned film editors in the country whose services are better used in Delhi and as Chandigarh Station was yet to generate any transmission. There was nothing illegal improper or malafide in the applicant's transfer to Chandigarh, as he had been adjusted as Film Video Editor when the cadre of Film Processor to which he belonged became surplus. Earlier transfer of the applicant was cancelled on medical grounds and there was no compelling reason to continue the same and retain him in Delhi. If the applicant does not join at Chandigarh, irreparable damage will be caused to the respondents. Therefore, the OA should be dismissed in public interest. Sh. Arif also stated that all the averments made by the applicant, alleging malafide was without any basis and those deserved to be rejected out right.

6. I have carefully considered the matter. Under normal circumstances, Tribunal does not interfere with the transfers issued by the Administration, in whose exclusive domain fall transfers, unless it is shown that the same is against the accepted guidelines or is malafide. In this case, it is however, found that the transfer though declared to be made in public interest, does not appear to have been so made. The applicant who was originally a Film Processor has been adjusted in the cadre of Video Film Editor, but he has not gained any experience or trained in Film Editing. He has been posted to Chandigarh a new Station, without any expertise in the

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field. Job of a Film Editor is not something like that of a ministerial hand, which can be held by a fresher, but is a technical and specialised job. He could, therefore, have been sent to work as Film/Video Editor only after he has been trained for that. It is also on record that his posting to Chandigarh earlier had been cancelled on health grounds. Even if his health has improved, the fact remains that he is yet to gain experience to handle the work independently. Otherwise he would be a burden on the exchequer. That being the case, his present transfer cannot be considered as having been made in public interest and it would appear the respondents were bent upon transferring him to Chandigarh. Their insistence that the work would suffer if the applicant does not join at Chandigarh loses its strength when they themselves admit in their counter that the said station does not generate any transmission. As such it is clear that the respondents had not made out any case for justifying the transfer. Same is the position with regard to adjusting Sh. A.K. Raina, in Delhi on the plea of his being an experienced Film Editor. Applicant's case is covered by the decisions of the Tribunal in the case of Kurikesu (Ernakulam) and P.K. Banerjee (Calcutta), referred in para 5 (supra). The applicants' transfer, therefore, have to be set aside. This does not mean that the applicant can seek posting at Delhi, for his entire career, Administration will be justified in ordering his transfer, in accordance

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with the guidelines if any, after he has been trained in Film/Video Editing.

7. In the result OA succeeds and is accordingly allowed. Impugned order dated 20.09.2001, transferring the applicant from Doordarshan Kendra, Delhi to Doordarshan, Chandigarh is quashed and set aside. Respondents are directed to continue the applicant in Delhi Kendra itself as Film Editor. They shall consider his transfer, if the Administrative interest so warrant, only in the next academic year, and that too after he has been trained in Film Editing. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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