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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA 2653/2001

New Delhi, this the day of 8th February, 2002.

Shri Govindan S. Tampli, Member(A)

Shri Mangal Ram s/o Shri Kandanwal
r/o RZ/50C, Gali No.13,
Maharishi Enclave, East Sagarpur,
New Delhi-110046.Applicant.
(By Advocate: Shri T.C.Agarwal)

Versus
Union of India through
1. Secretary to G/I,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi-110001.

2. Dy. Director General(Admn.)
Dte. General All India Radio,
Akashvani Bhawan, Parliament Street,
New Delhi-110001.

3. Station Director,
All India Radio, Parliament Street,
New Delhi-110001.Respondents.
(By Advocate: Shri A.K.Bhardwaj)

O R D E R(Oral)

By Hon'ble Govindan S.Tampli, Member(A)

Heard Shri T.C.Agarwal and Shri A.K.Bhardwaj, learned counsel for the applicant and respondents respectively.

2. Challenge in this OA is directed against the impugned order dated 7.3.2001, transferring applicant a Motor Driver Gr. I, from the office of Chief Engineer (R & D), I.P. Estate (Ring Road) to H.P.T., AIR, Khampur, Delhi with immediate effect. Applicant made representation on 18.7.2001 requesting for cancellation of said transfer but the same was rejected vide order dated 2.8.2001.

3. Shri T.C.Agarwal, learned counsel for the applicant states that applicant's transfer has been made for the reason that he belonged to the reserved category and that he was surplus in the place he was working.

Fundamental principle to be followed in case of surrender of surplus staff, if any is that it has to be 'last come first go'. However, a number of other persons junior to him have been retained. Further, both his wife and son are ill and are availing themselves of treatment in R.M.L. Hospital. It would be very difficult to him to discharge his duty towards his office and family as HPT AIR Khampur is very far away from his residence.

4. Rebutting the submissions made by the applicant, Shri A.K.Bhardwaj, learned counsel for the respondents states that the applicant has been transferred as he had the longest stay in Delhi. His request for retention has been carefully considered but the same could not be entertained. However, the respondents undertake to keep his request for transfer to the AIR Office located in Parliament Street, New Delhi in mind and take an appropriate decision shortly. Shri Bhardwaj also submits that the applicant has already joined duty at Khampur.

5. I have carefully considered the matter. The Order No.DEL-1(5)/2000-01-SIV(A) dated 05.3.2001 directs the transfer of Shri Mangal Ram, applicant from the office of the Chief Engineer to that of Superintending Engineer, HPT, AIR, Khampur with immediate effect. The said order does not state any reason. However, in the letter dated 13.7.2001 issued by Deputy Director (Administration) in the Chief Engineers' Office states that the transfer had been on account of his being declared 'Atirikt', which according to the applicant means of "surplus" while according to Shri Bhardwaj it means of "extra". Either way it means the applicant had

to be taken out of office where he was shifted. Shri Bhardwaj's contention that transfer of a Government servant is an incidence of Government service and should not be normally interfered with by the Tribunal is justified and is fortified by a few decisions of the Hon'ble Apex Court. As transfer has been made in the normal course and no stigma is attached to the extra said transfer and I am inclined to interfere with the same. At the same time, I note the undertaking given by Shri Bhardwaj that after examining the case of the illness of applicant's wife and son, respondents would consider granting him in Delhi. This, to my mind, is just and fair.

6. In this view of the matter, I dispose of this OA, not interfering with the transfer order but suggesting to the respondents to consider the case of the transfer of the individual shortly, if the ground given by him of the ill-health of his wife and son is found to be correct. No costs.

7. While disposing of this OA this transfer has been specifically done without merits and respondents are directed to consider the applicant, if he is individual found fit that the instructions to hold for transfer within three months from the date of receipt of a copy of this order. No costs.

(Govindan S. Tampi)
Member(A)

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