

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 195 of 1998

1. New Delhi, this the 1st day of April, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

Anil Kumar Sharma, S/O Sh.
Vishnu Dutta Sharma, R/O E-215/A,
Pratap Vihar, Ghaziabad (U.P.). - APPLICANT.

Versus

1. The Director General, All India Radio, Akashvani Bhawan, Sansad Marg, New Delhi - 110 001.
2. The Chief Engineer (North Zone). Akashvani & Doordarshan, Jam Nagar House, Sahajahan Road, New Delhi - 110 011.
3. The Superintending Engineer, High Power Transmitters, All India Radio, Kingsway Camp, Delhi - 110 009.

2. RESPONDENTS.

(By Advocate -Sh. V.S.R.Krishna)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

The applicant impugns, in this OA, the order of transfer dated 11.11.1997 and the order dated 18.12.1997 by which he was relieved. He states that he made several representations, Annexures A-3 to A-7 and these representations were not answered.

2. Initially appointed as an Engineering Assistant from 3.6.1985, the applicant works as a Sr. Engineer Assistant in the office of respondent No. 3. He was promoted to the present post in Jan 1991. The applicant states that under the transfer policy a person with the longest continuous stay at the station should ordinarily

be considered first. By the impugned order, the applicant was transferred from Delhi to LPTV Riyasi (J&K State). The applicant contend that 10 other employees senior to him are working as Sr. Engineering Assistant for more than 15 (Fifteen) years and yet they were not transferred. He questions his transfer on the ground of discrimination and also on the ground of non-compliance with the transfer policy. He cited decisions in (1991) 17 ATC 786, (1992) 20 ATC 474, (1989) 10 ATC 396 in support of his stand.

3. After notice the respondents state that the applicant, working as SEA, represented on 22.9.1997 to DG, A.I.R. requesting for his transfer from High Power Transmitter, All India Radio, Kingsway. As per request his representation was forwarded to the Chief Engineer (NZ) AIR & Doordarshan, Jamnagar House, Delhi to transfer him anywhere in the Zone. Accordingly the impugned transfer order was issued, and thereafter he was relieved. The other ground raised was that this court has no jurisdiction because Prasar Bharti (Broadcasting Corporation of India) Act, 1990 has come into effect w.e.f. 15.9.1997 and this OA has been filed on 19.1.1998 i.e., after the Prasar Bharti was constituted. The Union of India cannot be made a respondent and, therefore, this Court has no jurisdiction to adjudicate the OA.

4. I have carefully considered the submissions. The applicant's counsel stated that request for transfer is made only for a shift within Delhi and not to a distant place like J & K. He never made it clear, in his

representation, that he wanted to be retained only in Delhi. Once a request for a transfer is made to another Unit, it is open for the Transferring Authority to act on the same and pass an appropriate order thereon. This has nothing to do with the seniority of other colleagues of the applicant's in the same station. The transfer policy guidelines do not come into play when there is a voluntary request for transfer. The law is well settled in this regard. The transfer is an incident of service and the employer has the sole right to decide as to how when and where the services of an employee are to be utilised. As long as the transfer order does not violate any provisions of law or is not mala fide, Court has no jurisdiction to interfere. Admittedly, as none of these grounds are raised in the present OA, I do not find any justification to interfere with this order of transfer. As this OA is dismissed on merits, I do not intend to examine the question of jurisdiction raised.

The OA is dismissed. No costs.


(N SAHU) 1-4-98
MEMBER (ADMNV)

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