

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.1315/96

New Delhi this the 26<sup>th</sup> day of August, 1996.

Hon'ble Sh. R.K. Aahooja, Member(A)

Smt. Sukanya Sengupta,  
Deputy Director,  
Research Department,  
A I R & DD, New Delhi.  
R/o 213, Asia House, K.G. Marg,  
New Delhi.

Applicant

(through Ms. Shashi Kiran, advocate)

versus

1. Union of India  
through Secretary,  
M/o Information & Broadcasting,  
Shastri Bhawan,  
New Delhi.

2. Mr. J.G. Gupta, Chief Engg.,  
Office of the Director General,  
(S - III Section), All India Radio,  
Akashwani Bhawan, Sansad Marg,  
New Delhi.

3. Mr. K.M. Paul,  
the Chief Engineer(R&D),  
Director (Research),  
Govt. of India, All India Radio,  
14-B, Ring Road,  
I.P. Estate, New Delhi.

Respondents

(through Sh. B. Lall, advocate)

ORDER

delivered by Hon'ble Sh. R.K. Aahooja, Member(A)

The applicant Mrs. Sukanya Sengupta is working as Deputy Director, Research Department, A I R & DD, New Delhi. She is aggrieved that she has been transferred to Calcutta vide Office Order No. 9/96 - S.III dated 17.6.96 (Annexure B) due to mala fide on the part of respondents No.2 & 3. The allegation is denied by the respondents.

I have heard the learned counsel of both the sides and have gone through the pleadings on record.

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The case of the applicant is that she joined the Indian Broadcasting Engineering Services in June, 1983 through U.P.S.C. and was posted in Delhi where she was doing her job satisfactorily. Suddenly, she received notice dt. 8.10.93 informing her that she had been transferred and relieved of her duties from a retrospective date i.e. 27.8.93. The applicant submitted a number of representations and eventually the transfer order was modified vide order dt. 20.12.93 (Annexure E) and she was posted with respondent No.3. The applicant says that despite her posting order, she was not allowed to join her duties and on the other hand she was directed to file leave applications for the same and in one case the period involved was ordered to be treated as dies non. Respondents No.2 & 3 who were allegedly annoyed because she got her transfer order cancelled, created many difficulties and hurdles like non-availability of facilities in office to ensure that she did not function properly. She also alleges that at the instance of respondents No. 2 & 3 her juniors also misbehaved with her. Finally she approached the D.G., A.I.R. on 9.2.96 to put forward her grievances. She also filed a representation dt. 1.1.96 and reminders were also given but she did not receive any reply. Instead she has been confronted with the impugned transfer order dt. 17.6.96. The applicant has sought multifarious reliefs including to treat the period from 4.1.94 to 9.2.94 and from 26.8.93 to 31.12.93 as on duty which has been treated as dies non. However, at the time of hearing, the relief No.1 & 2 were given up and only the relief in respect of the impugned transfer order dt. 17.6.93 was persisted with.

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The learned counsel for the applicant has tried to show a nexus between the alleged incidents of applicant's earlier transfer in 1993 and the present impugned transfer order of 1996. She argued that the conduct of respondents No.2 & 3 and the denial of facilities in office to perform her duties and the issue of patently illegal orders treating some period as dies non clearly gives rise to the clear inference of the mala fide harboured by them against the applicant and the present transfer order is the out come of the same enmity. It was also argued that there are other officers who have had a longer stay in Delhi and have not been disturbed and in any case no administrative exigency or public purpose required the transfer of the applicant to Calcutta. The learned counsel also drew the attention of the Court to the Govt. Policy regarding posting of husband and wife at the same station to enable them to live a normal family life. She pointed out that the applicant's husband is posted in N.T.P.C. Delhi in a non-transferable job and the transfer of the applicant to Calcutta is thus contrary to the established guidelines framed by the Government.

The respondents have denied the allegations regarding mala fide. They point out that the applicant has a transferable job and in the present instance the transfer order includes 34 officers and not only the applicant. The learned counsel for the respondents also relied on the decision of the Hon'ble Supreme Court in case of U.O.I. Vs. S.L. Abbas (1993(4) SCC 3577) wherein the Hon'ble Supreme Court have held that who

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should be transferred where and when is a matter for the appropriate authority to decide and unless the transfer order is vitiated by mala fides or is made in violation of any statutory rules, the Court cannot interfere with it.

Having given careful consideration to the matter, I find little merit in the case of the applicant. The applicant was recruited to her present post in 1983 and has since then been in Delhi. It is not denied that she holds a transferable job. No guideline or statutory rule has been cited on behalf of the applicant to show that her transfer is either pre-mature or is contrary to the rules. Though the learned counsel for the applicant alleged that there are many officers who have been staying in Delhi for a long time than the applicant and have yet not been disturbed, no specific case has been cited.

It is also true that her husband is posted in Delhi. Even if we accept that her husband holds a non-transferable job or in any case he cannot be posted to Calcutta, where the applicant is now transferred, this cannot in itself be a ground for keeping the applicant indefinitely in Delhi. The guidelines regarding keeping the husband and wife at the same station as far as possible do not take away the discretion of the concerned authority to transfer either if the administrative requirement necessitate such a transfer. The Govt. of India O.M.No.28034/7/86-Estt.(A) dated 3rd April, 1986, copies of which have been annexed by both the parties also provide for the contingencies where one of the

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spouse works in a Public Sector Undertaking. It is, therefore, now for the husband of the applicant to seek a transfer if the same is possible as the applicant has been in Delhi for over 13 years.

The allegation of the applicant regarding mala fide on the part of respondents No.2 & 3 also does not hold good. The applicant has been working with the respondent atleast since 1994 after her transfer orders of 1993 were modified. It is now after more than two years <sup>if</sup> when she has been transferred again and this by itself therefore does not go to show that the respondents are prejudiced against her. All the incidents regarding leave, which have been cited, pertain to the first part of 1994 and if the applicant was not satisfied with her working conditions, she should have approached the higher authorities and sought a change of posting to another office. The conclusion is inescapable that the applicant is willing to work with the respondents despite alleged prejudice provided she is not transferred out side Delhi. As the impugned transfer order shows, nearly 30 officers apart from the applicant have been transferred. <sup>it</sup> also does not appear therefore that the applicant's case has been taken up in isolation for transfer outside Delhi.

In the facts and circumstances of the case, I ~~reject~~ find no merit in the application, and the same is dismissed.

No order as to costs.

*R.K. Andoja*  
(R.K. Andoja)  
Member (A)