

Central Administrative Tribunal
Principal Bench

O.A. No. 1180 of 2000

New Delhi, dated this the ¹⁴ September, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Association of Radio & Television Engineering Employees through Shri Anil Kumar S., S/o Shri P.R. Sukumara Pillai, General Secretary.
2. Shri Kuldeep Bhan, s/o Shri S.L. Bhan, Vice President, ARTEE
3. Shri J.B. Roy, S/o Shri R.T. Roy, Additional General Secretary, ARTEE.
4. Shri Umesh Chandra, S/o Shri Abhay Ram Sharma
5. Shri Anand Sarup Kaushik, S/o Shri Shiva Sarup Kaushik .. Applicants

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The Secretary, Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi.
2. The Director General, All India Radio, Akashvani Bhawan, New Delhi.
3. The Director General, Doordarshan Kendra, Mandi House, New Delhi.
4. The Chief Executive Officer, Prasar Bharati, Mandi House, New Delhi-110001.

.. Respondents

(By Advocate: Shri Rakesh Chatterjee proxy
counsel for Shri Chandra Kumar)

ORDERS.R. ADIGE, VC (A)

Applicants impugn respondents' order dated 25.2.2000 (Ann. A-1) and dated 3.3.2000 (Ann. A-2) formulating ad hoc staffing norms for Prasar Bharati (Doordarshan) and Prasar Bharati (All India Radio) and seeking a direction to respondents to conduct a systematic study of staffing norms through some outside agency/consultant like Staff Inspection Unit (SIU) and to take a decision finally instead of resorting to adhocism, resulting in difficulties and hardships to the members of the Association by dislocation and curtailment of staff.

2. The question whether Prasar Bharati Corporation was competent to transfer employees of the Ministry of Information & Broadcasting who were serving with the Corporation, had occasion to be examined by the Madras High Court in W.P. No. 20051, 20068, 20084 and 21210 of 2000 Union of India & Others Vs. D. Dev Raj & Others. The Madras High Court in its order dated 17.1.2001 inter alia held as under:

"It was not in dispute that all these employees were in transferable service as employees of the Government of India and everyone of them was subject to the liability for transfer. By serving in the Corporation, they did not gain any immunity from transfer, except the field of transfer was to be limited to within the Corporation, and not beyond. It was not open to the employees to contend that they were not required to work at any place other than the one they choose. As long as they by their conduct had not disputed their implied deputation to the

Corporation, and as long as they received the salary and other remunerations from the Corporation, they were subject to reasonable control and supervision by the authorities of the Corporation. The decision to redeploy the existing personnel in such a manner as to make everyone of the Kendras and stations fully operational thereby maximise the revenue of the Corporation which was presently being run with huge subsidy amounting to Rs.900/- crores from the public exchequer could by no means be regarded as arbitrary or unreasonable. The Tribunal had proceeded on the wholly erroneous assumption that a deputationist to the Corporation who had nowhere questioned such deputation, had still a right to demand that his services be rendered only at the place of his choosing and not at the place where the work of the Corporation to which he was deputed, required such performance.

3. We are bound absolutely by the aforesaid order dated 17.1.2001 and it is not open to us to hold that the decision to redeploy the staff on the basis of the ad hoc staffing norms is arbitrary or illegal. Indeed a Full Bench of the Tribunal constituted to resolve the controversy as to whether employees of the Ministry of Information & Broadcasting serving with Prasar Bharati Corporation could be transferred by that Corporation relied heavily upon the aforesaid order of the Madras High Court to rule that Prasar Bharati could transfer such employees.

4. During the course of hearing applicants' counsel Shri Mainee contended that SIU had already been entrusted with the task of formulating norms and their recommendations should be awaited. On the other hand respondents' counsel contended that a

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considerable period time was likely to elapse before the SIU recommendations were received, and meanwhile work was suffering.

5. The question whether respondents would like to wait for the recommendations of the SIU, or any other body, is a matter exclusively within the jurisdiction of the executive authorities. Suffice it to say that applicants have no enforceable legal right to compel respondents to conduct any further study, or indeed of awaiting the SIU norms before implementing the impugned redeployment orders.

6. It also needs to be mentioned here that the scope of judicial review of transfer/redeployment orders have been defined in a catena of Supreme Court rulings.

7. In Union of India Vs. H.N. Kirtania JT 1989 (3) SC 131 the Hon'ble Supreme Court has held that the transfer in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of malafides (emphasis supplied).

8. In Union of India Vs. S.L. Abbas 1993 (2)SLR 585, it has been held that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions (emphasis supplied), the Court cannot interfere with it.

9. In the present case before us, there are no statutory rules which have been brought to our notice as having been violated. Furthermore in the grounds taken in the O.A., there are no allegations of malafides against any particular individual. It is well settled that where malafides are alleged, the same should rest on a firm foundation, and the person (s) against whom the malafides are alleged should be specifically impleaded as a party to enable him to reply to the allegations. In the present case before us, as stated above, in the grounds taken in the O.A, there are no allegations of malafides against any individual let alone that individual being specifically impleaded as a party.

10. In the result the O.A. warrants no interference. The O.A. is dismissed. Interim orders are vacated. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

karthik

S.R. Adige
(S.R. Adige)
Vice Chairman (A)