

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2029/2000
M.A.No.720/2001

(7)

Hon'ble Shri Shanker Raju, Member (Judicial)

New Delhi, this the 30th day of August, 2001

Shri A.N.Rai
s/o Late Shri L.M.Rai
r/o RZ-D/20 Roshan Vihar-II
Najafgarh, New Delhi.
presently working as
Transmission Executive in the
Department of News Service Division
All India Radio
New Delhi.

.. Applicant

(By Advocate: Shri Jog Singh)

Vs.

Union of India through

1. Secretary
Ministry of I & B
Shastri Bhawan
New Delhi.
2. Chief Executive Office (CEO)
Prasarbharati, Akashwani Bhawan
New Delhi.
3. Director General
All India Radio
Akashwani Bhawan
New Delhi.
4. Director General (News)
News Service Division
All India Radio
New Delhi.
5. Director of Programme (Personal) AIR
Akashwani Bhawan
New Delhi.

... Respondents

(By Advocate: Shri P.P.Relhan, proxy of Shri
J.B.Mudgil)

O R D E R(Oral)

By Shanker Raju, Member (J):

The grievance of the applicant is against an order passed by the respondents on 25.9.2000 whereby the applicant has been transferred in the same capacity to National Channel, All India Radio, New Delhi. The applicant has contended that he has been

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subjected to number of transfers on which are due to personal malafides and against the transfer policy by way of punishment and not in the administrative exigency or in public interest. The contention of the applicant, by drawing my attention to transfer policy dated 4/7.8.1981, is that for the purpose of transfer the stations have been categorised as A, B and C and on the basis of their tenures at the stations, i.e, 4 years, and 2 years under which incumbents are subjected to transfer and posting. In this back ground it is stated that in Delhi Unit there are 8 independent units (offices) having each of which manned by one Director General. The respondents have not followed their transfer policy and had not categorised these stations as to be amenable to the transfer policy. It is also stated that persons having longer tenure have been retained whereas the persons with shortest stay have been subjected to transfer. Drawing my attention to an order passed on 7.9.2000, Annexure 'D' to the OA, whereby the applicant has been relieved on transfer, it is stated that the copy has been marked to the applicant only and was communicated to him. Later on another copy, Annexure R-2 to the Rejoinder was served upon the applicant on the same date wherein the copy has been marked to the Station Director, AIR, New Delhi wherein it has been observed that as per the vacancies available the applicant has not been found suitable for the division, a suitable substitute in his place may also be posted in consultation with the division. In this back ground, it is stated that the order is stigmatic and passed on the back of the applicant

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which is a mischief on the part of the respondents and amounts to punishment without according an opportunity to defend.

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2. Another contention of the applicant is that the applicant was transferred on 7.9.2000 and this transfer order has been cancelled as withdrawn and thereafter another order was passed on 25.9.2000 transferring the applicant which clearly shows malafide of the respondents. It is stated that in Para 7 of the OA that immediately after the registration of the Programme Staff Welfare Association's various officers of the Respondents have made a signed and written appeal not to break away from the earlier Association, namely Programme Staff Association (PSA) of which they all are members. It is further stated that, in fact, Mr. A.K.Padhi, Director (Per) has also signed that appeal and has been an Executive Member of the said Programme Staff Association,, it is pertinent to mention here that Shri A.K.Padhi, is looking after the Transfer posting affairs of the applicant. In these circumstances, according to the applicant, the impugned transfer order is neither a routine transfer order nor in the public interest. Thereafter, the applicant when joined the association which annoyed Mr. Padhi who settled the personal score by the applicant by way of punishment.

3. Strongly rebutting the contentions of the applicant, the learned counsel for the respondents states that the applicant has not put up his grievance before them by way of filing a representation and if

he has any reasonable grievance and if there was any violation to the transfer policy the respondents would have taken care of the same had he preferred a representation before them. Whereas, it is found from the record that the applicant has made two representations to the respondents which have not been replied with. However the learned counsel for the respondents states that no such representations have been received by them. The learned counsel for the applicant has further stated that transfer policy is applicable only to person who is transferred out of station and would not be amenable to different station in Delhi. It is lastly contended that there is no receipt of acknowledgement of the applicant's representation furnished by him in this OA. 20

4. I have carefully considered the rival contentions of both the parties and perused the record. At the outset, the learned counsel for the respondents has fairly submitted that had the grievance was raised before them by the applicant by way of a representation the same would be taken care of and his request for transfer would be acceded to. In view of this matter and having regard to the circumstances of the case the present OA is disposed of with the directions to the respondents to treat the present OA as a representation of the applicant and dispose of the same by passing a detailed and speaking order after considering the grievance of the applicant as made out from the averments contained herein. The aforesaid directions shall be complied with within a

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period of two months from the date of receipt of a copy of this order. Till then the applicant would not be disturbed from the present posting. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/