

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00265/2020

Date of Order: This, the 9th day of December, 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

Shri Bhaskar Misra
Son of Late Chandra Kanta Deva Misra
Senior Engineering Assistant
Doordarshan Kendra, Guwahati
R.G. Baruah Road
Guwahati-781024, Assam.

... Applicant



- Versus -

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Information &
Broadcasting, A Wing, Sashtri Bhawan
New Delhi – 110115.
2. The Director General
Doordarshan, Prashar Bharati
(India's Public Service Broadcaster)
Doordarshan Bhawan, Copernicus Marg
New Delhi – 110001.
3. The Additional Director General (A)
All India Radio & Doordarshan
(North East Zone) Doordarshan Complex
R.G. Baruah Road, Guwahati, Pin – 781024.

...Respondents

For the Applicant:	Sri Adil Ahmed & D. Goswami
For the Respondents:	Sri A. Chakraborty, Addl. CGSC

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ORDER (ORAL)**MANJULA DAS, MEMBER (J):**

This matter has been taken up through video conferencing.

2. This case has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1985 seeking for the following reliefs:-



“ 8.1 To set aside and quashed the impugned Transfer Order No-10/2019 under Letter No ADG (E) (NEZ)/1(27)/SEA/2018-19-5/3112 dated 11.11.2019 and relieved Order bearing No. DDK/GUW/14(5) Engg./2018-S/7154 dated 02.09.2020 in case of the instant Applicant.

8.2 To direct the Respondents particularly Respond No. 3 to recall the relieved order dated 02.09.2020 of the Applicant by allowing him to continue at any vacant place either at Doordarshan or All India Radio Guwahati as there is sufficient vacancy is available in those places.

8.3 To pay the cost of the case to the Applicant.

8.4 Any other relief (s) that may be entitled to the Applicant.

3. Sri Adil Ahmed, learned counsel for the applicant at the outset of moving this petition submits that at the time of filing the instant O.A., applicant is 58 years old. Since the applicant has left service only for

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two years, as such, he is entitled to retain at his present place till retirement in view of the decision rendered by Hon'ble High Court in the case of **Union of India Vs. Dr. Umesh Kumar Mishra WA No. (SH) 17/12** as well as **Sarvesh Kumar Awasthi Vs. U.P. Jal Nigam and Ors. (2003) 11 SCC 740.**



4. Learned counsel further submits that applicants' son Master Krisanu Deva Misra is in the academic session who is going to appear in class X Board Final Examination in the month of March 2021. As such, during academic session, it is not possible to shift his son to another school at Aizawl (Mizoram). As such, said transfer order dated 11.11.2019, in respect of the applicant, is not sustainable in view of the decision of rendered in the case of **Director of School Education, Madras & Ors. Vs. O. Karuppa Thevan 1994 Supp (2) SCC 666** wherein the Hon'ble Apex Court has held that – "Transfer of an employee during mid-academic term is not proper unless exigencies of service are urgent for making such transfer."

5. I have heard Sri Adil Ahmed, learned counsel for the applicant and Sri A. Chakraborty, learned Addl. CGSC for the respondents. Learned counsel for the applicant has drawn my attention to the department's own guideline No. 502/10/81-TV dated 10.09.1982 issued by the Government of India, Ministry of Information & Broadcasting on the subject of 'Transfer Policy' where para xiii says as under:-



“xiii Members of staff who are within three years of reaching the age of superannuation will, if post at their home town, not be shifted there from. It is becomes necessary to post them elsewhere, efforts will be made to shift them to or near their home towns to the extent possible.”

6. It is noted that on receipt of impugned transfer order dated 11.11.2019, applicant did make a representation dated 03.09.2020 to the respondent No. 3 with a request to retain him at DDK, Guwahati, Assam till his retirement and in view of the academic session of his children. However, vide impugned order dated 02.09.2020, he was relieved from his duties w.e.f. 04.09.2020 (A/N) with the instruction to report at DDK, Aizawl.

7. In the present case, it is further noted that respondent authorities while transferring the applicant from DDK, Guwahati to DDK Aizawl did not follow their own guidelines as the applicant is retiring after 02 years and 11 months i.e. 03 years of service left. In **Sarvesh Kumar Awasthi Vs. U.P. Jal Nigam and Ors. (2003) 11 SCC 740**, the Hon'ble Apex Court has held that – “transfer of officers is required to be effected on the basis of set norms or guidelines”.



In **Union of India Vs. Dr. Umesh Kumar Mishra WA No. (SH) 17/12**, Hon'ble Gauhati High Court has held that–

“Fairness requires that if a policy has been laid down, the same may be deviated from only if there is any reason to do so. If no reason is forthcoming, the exercise of power of transfer in violation of a laid down policy may be held to be arbitrary.”

8. By taking into consideration the entire conspectus of the case as well as ratio laid down by the Hon'ble Apex Court, and Hon'ble Gauhati High Court as well as departments' guideline mentioned above, I hereby direct the respondent authorities to consider the case of the applicant by allowing him to

continue at his present place of posting at DDK, Guwahati till his retirement. Consequently, impugned Transfer order No. 10/2019 under Letter No. ADG (E)(NEZ)/1 (27)/SEA/2018-19-5/3112 dated 11.11.2019, in respect of the applicant as well as relieved order bearing No. DDK/GUW/14(5)Engg./2018-S//7154 dated 02.09.2020 are hereby quashed and set aside.



9. With the above observations and directions, O.A. stands disposed of accordingly at the admission stage.

10. There shall be no order to costs.

(MANJULA DAS)
MEMBER (J)

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