

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.430/86

Date of decision: 03.11.1992.

Shivaji ... Applicant

Vs.

Union of India and ... Respondents
Others

CORAM:

THE HON'BLE MR. JUSTICE V.S.MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K.RASGOTRA, ADMINISTRATIVE MEMBER.

For the applicant ... Shri Shyam Moorjani, Counsel.

For the respondents ... Shri M.L.Verma, Counsel.

JUDGMENT (ORAL):

(As per Hon'ble Mr. Justice
V.S. Malimath, Chairman):

The petitioner started his career as Announcer in the All India Radio, Jaipur. When vacancy of Producer in Folk Music (Archives) was required to be filled up from the departmental candidates, the petitioner offered himself for the same. He was duly selected and appointed as Producer on 31-12-1981. From that date, he has been occupying the higher post from that of Announcer, namely, Producer in Folk Music (Archives). Some adverse entries in the Confidential Report of the petitioner of the years 1983 and 1984 were made which were duly communicated to

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him. He made representations on 20-5-1985 and 13-1-1986 seeking further information in regard to the adverse entries to enable him to make an appropriate representation. Ultimately, by order dated 14-5-1986, Annexure A-16, he was informed that the adverse entries for the years 1983, 1984 cannot be expunged. By the very same order, he was informed that he should report for duty at Akashwani as per the decision of the office of the Director General given to him vide letter dated 19.2.1986. It is in this background that the petitioner approached this Tribunal for relief both in regard to the adverse entries for the years 1983, and/as also in regard to the decision said to have been taken to revert and transfer him to Jodhpur. Though no order to revert as such was served on the petitioner as stated by him, he apprehended that that is the clear effect of the direction transferring him to Jodhpur. He, therefore, complained about his reversion from higher post to a lower post in the Original Application. The request for interim relief was examined by the Tribunal on 19-6-1986. The Tribunal adverted to the apprehension of the petitioner that the order of transfer is not a simple order transferring him from one position to another of equal status but brings about demotion. The Tribunal felt that the petitioner would suffer grave and irreparable loss and an interim order was granted. It was, however, made clear that it is open to post the petitioner

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to any other place in Rajasthan provided it is in equivalent post. When the petitioner was transferred as Producer of A.I.R., Suratgarh, the petitioner appears to have declined to receive the orders of posting, as per Order dated 2.7.1986. The petitioner was asked to take copy of the order and report himself at Suratgarh posting him to an equivalent post. The petitioner, accordingly, joined there and in due course was transferred to Jaipur as Producer in Folk Music (Archives) and Classical. These are facts about which the petitioner cannot have any grievance. It is in this background that we are required to examine the case before us.

2. We shall first examine his grievance about his reversion. The petitioner has not been able to produce any order in support of his case that he has been reverted. The impugned order dated 14-5-1986 only directs the petitioner to report for duty at Akashwani, Jodhpur. The order of transfer dated 19-2-86 of the Director-General adverted to in that letter has not been produced by the petitioner. It is not possible for us to understand Annexure A-16 dated 14-5-1986 as an order reverting the applicant from the post of Producer to the lower post of Announcer or an equivalent post. So far as the respondents are concerned, they have not placed before us any document by which the petitioner has been

reverted. It is, therefore, clear that neither the petitioner nor the respondents have produced any order from which we can draw a reasonable inference that the petitioner has been reverted from the post of Producer to a lower post. That being the position, if the petitioner has been transferred to Akashwani, Jodhpur in the ordinary circumstances, we should construe the same as having the effect of transferring the petitioner to another equivalent post.

If that is, however, the order is to be understood, it is obvious that the petitioner cannot have any grievance. The petitioner states that he is not liable to be transferred or reverted to a lower post. As there is no material before us produced either by the respondents or by the petitioner and nor can it be inferred from the records before us, it is not possible to hold that the petitioner has been reverted.

That being the position, the question of quashing the reversion of the petitioner does not arise. The petitioner has already been transferred and posted as a Producer at Akashwani, Jaipur and he is comfortably placed in an equivalent post. Therefore he cannot make any grievance about his posting to the present post at Jaipur. Thus, it is enough for us to say that no proceedings have taken place so far reverting the petitioner. That should suffice so far as the main relief claimed by the petitioner is concerned.

3. So far as the adverse entries are concerned, we are not inclined to interfere. The order Annexure A-16 says that it is not possible to expunge the adverse remarks for the years 1983, 1984. If we look at the representations dated 20-5-1985 and 13-1-1986, it becomes clear that the petitioner had really not asked for expunging the adverse remarks for the years 1983, 1984. In his representations, he asked some information from the authorities to enable him to make an appropriate representation challenging the adverse entries. The petitioner's case is that no such information had been furnished to him. In these circumstances, the request seeking information cannot be treated as a prayer for expunction of adverse remarks. We, therefore, proceed on the basis of the adverse entries for the years 1983, 1984 Th and have really not been challenged by the petitioner by making a representation in this behalf. Hence, no relief so far as adverse entries for the years 1983, 1984 is concerned, is called for. Even otherwise, we see no ground to interfere with the same.

4. For the reasons stated above, subject to the declaration made by us that the petitioner has not been reverted from the post of Producer in Folk Music (Archives) to a lower post, no further direction is called for. This OA stands disposed of. No costs.

S. Balgopal
(I.K.RASGOTRA)
MEMBER (A)

V.S.MALIMATH
(V.S.MALIMATH)
CHAIRMAN