

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1100
T.A. No.

1986.

DATE OF DECISION December 9, 1986.

Doordarshan Programme Staff Petitioner
Union (India)

Shri B.S. Bindra, Advocate for the Petitioner(s)

Versus

Director General, Directorate of Respondent
Doordarshan, New Delhi.

- Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to other Benches? *Yes*



(Kaushal Kumar)
Member

9.12.1986.



(K. Madhava Reddy)
Chairman

9.12.1986.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. OA 1100/86.

December 9, 1986.

Doordarshan Programme Staff Union
(India).

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Applicants

Versus

Director General,
Directorate of Doordarshan,
New Delhi.

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Respondents.

CORAM:

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For the applicants

Shri B.S. Bindra, Counsel.

(Judgment of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman).

The applicants call in question the order of transfer No. 135/86-S.I. dated 3.11.1986, issued by the Dy. Director (Admn.), Directorate of Doordarshan, New Delhi. Under the impugned order the applicants who are Film Processors are transferred in the same capacity from Upgrah Doordarshan Kendra, Delhi to Doordarshan Kendra, Calcutta with immediate effect. The applicants claim that they are members of the Door Darshan Programme Staff Union (India) which is a registered trade union under the Trade Union Act, 1926 and that they are the office bearers of the Union holding the post of General Secretary and President respectively with effect from 29.10.1986. They claim that in view of their position in the Staff Union, they are entitled to be retained at Delhi and are not liable to be transferred to any other place.

Shri B.S. Bindra, learned counsel for the applicants primarily contended that under the Explanation to sub section 3 of Section 33 of the Industrial Disputes Act, 1947, applicants are "protected workmen" and, therefore, transferring them from Delhi, the Headquarters of their Union to Calcutta

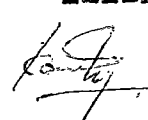
contravenes the provisions of Section 33 of the Industrial Disputes Act, 1947. This Provision which prohibits certain action being taken during the pendency of any proceedings before a conciliation officer or a Board or before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an Industrial dispute is not attracted on the facts of this case because the Trade Union of which he is an office bearer is not a recognised union. Even assuming that the applicant may be a "Protected Workman" within the meaning of the Section 33 of the Industrial Disputes Act, it is not averred that any such proceedings are pending before any of these Authorities so as to attract Section 33 of the Industrial Disputes Act.

It is also alleged that this transfer ~~was~~ made within 5 days of election is mala fide and also contrary to the transfer policy enunciated in Government of India, Ministry of Information and Broadcasting letter No.502/10/81-TV dated the 10th September, 1982. Clause (xv) of this letter reads as follows:

"Only the Chief Executive of the Central Body of a recognised Association/Union/Federation as defined in the constitution of that Association/Union/Federation, or where the Chief Executive has not been specifically defined in the constitution of such an Association/Union/Federation, the General Secretary thereof, may, if he is posted at a centre/office outside Delhi/New Delhi, be brought on transfer to a Station/office at Delhi/New Delhi. In case, however, he is already posted at a centre/office in Delhi/New Delhi, he will not be transferred to a centre/office outside Delhi/New Delhi so long as he is entitled to be retained at Delhi/New Delhi."

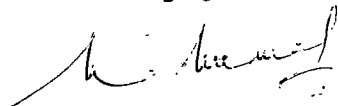
On the applicants' own showing, their Union is registered under the Trade Union Act, 1926 but so far it is not recognised. The above mentioned clause (xv) applies only to a recognised Trade Union and not to every registered Trade Union. The applicants cannot, therefore, get the protection of the said clause.

The allegations of mala fides are absolutely vague. All that the applicants state is "that the transfer of the applicants is a clear cut case of unfair labour practice

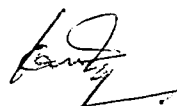


and the victimisation of the office-bearers of the Union, specifically to curb the trade union activities and also demoralise the other workers not to become office bearers of the Union, otherwise they will meet with the same fate likewise the applicants in the future! They do not name the person who is actuated by malafides, nor do they aver why they are prejudiced against them, nor what incident, if any, has provoked their transfer. Transfer is an incidence of service and merely because they are transferred in the course of the administration, it cannot be deemed an unfair and improper practice. If in administrative exigency transfer is effected, it cannot be termed as mala fide. May be transfer causes some inconvenience to the applicants but that by itself is no ground to hold that it is mala fide or to quash it.

We find no merit in this application and it is accordingly dismissed.



(Kaushal Kumar)
Member
9.12.1986.



(K. Madhava Reddy)
Chairman
9.12.1986.