

In the Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.3265/92

Date of decision: 30.12.1992.

Shri D.R. Jagiya

...Petitioner

Versus

Union of India through the
Director, Song and Drama Division,
Ministry of Information & Broadcasting
& Another

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

In person.

For the respondents

Shri T.V. Gopalan, Supdt.

Judgement(Oral)

This Original Application has been filed against the impugned order of transfer of the petitioner issued on 26.11.1992. The petitioner is working as a Technical Assistant in the office of the Director, Song and Drama Division, Ministry of Information and Broadcasting and has been transferred from New Delhi to Ranchi. He has filed a representation on 27.11.92, addressed to Director, Song and Drama Division, New Delhi, wherein the main ground taken for

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seeking cancellation of the transfer order is that he is neither the seniormost nor the juniormost. In his detailed representation filed subsequently on 3.12.1992 he has again taken the grounds that the order of transfer is punitive and vindictive. To buttress this argument he has stated that once a false case was framed against him but after the enquiry the charge was not proved and the disciplinary proceedings were dropped. The dropping of the disciplinary proceedings by the disciplinary authority, however, does not prove any bias or vindictiveness against the authorities. In fact it reflects fair and just attitude to the problem. His second ground is that once a lady was promoted as Technical Assistant and posted at Bhopal. She was assured that she would be brought back as Technical Assistant to Delhi soon. According to him the respondents tried to move him out but in his own language "it proved hard nut to crack for him". Eventually, the lady was brought back on reversion to Delhi. In paragraph-14 of his representation, however, there seems to be a bonafide ground, i.e., the detrimental effect of the transfer at this point of time on the studies of his children. On a query from the Bench the petitioner stated that his eldest son is studying in 9th class and second and third children are studying in 7th and 4th standards. Ordinarily the respondents do not effect transfer in the mid session and this seems to be a bonafide ground for considering his representation, subject to his making an appropriate representation to the respondents.

2. Although, we had issued notice to the respondents on

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17.12.1992, I do not feel that the case merits to be pursued further, first on account of the reason that the petitioner filed a representation on 3.12.92 and filed this Application on 15.12.92. The petition, therefore, is pre-mature and secondly the transfer is a normal incidence of service and the petitioner himself accepts that he has all India transfer liability. He has been working in Delhi since 1967. He cannot, therefore, have any ground for refusing to go on transfer. Keeping in view the totality of the circumstances and the submissions of the petitioner who was present in person, I am of the opinion that the petitioner should make an appropriate representation, highlighting the disruption in the education of his children which the transfer order, if implemented at the present stage would cause particularly in the case of the eldest child. He should seek postponement of his transfer till the school session is over so that there is no adverse effect on the education of his children. We are satisfied that if a proper representation in this context is made by the petitioner the respondents shall give most sympathetic consideration to the postponement of his transfer to April-May, 1993 depending upon the school session.

3. At this stage, the representative of the respondents Shri T.V. Gopalan, appeared and filed a copy of the order No.A-22015/2/92-Admn.I issued by the respondents on 28.12.1992 which reads as under:-


"In partial modification of this Division's order dated 26th November, 1992, the transfer of Shri

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D.R. Jaggia, Technical Assistant, from Delhi to Ranchi is deferred till the end of the current academic year.

This issues with the approval of Director."

In view of the above order and in absence of any material proving bias or vindictiveness on the part of the respondents, the Application does not merit any interference from the Tribunal. The same is accordingly dismissed. No costs.


(I.K. RASGOTRA)
MEMBER (A)