

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 23rd day of May 1996.

Original Application no. 563 of 1996.

Hon'ble Mr. S. Dayal, Member-A.

Bharat Lal, S/o Shri Panna Lal, R/o Village and Post Office Andhaun, District Ghazipur, Working as Junior Engineer (Electrical), Civil Construction Wing, All India Radio, Varanasi.

... Applicant.

C/A Shri A.N. Tripathi, Shri S.C. Srivastava.

Versus

1. The Director General, All India Radio, Akashvani Bhawan, New Delhi.
2. The Superintending Engineer, Electrical, Civil Construction Wing, All India Radio, Soochna Bhavan, Lodi Road, New Delhi.
3. The Executive Engineer (Electrical) Civil Construction Wing, All India Radio, 9. Rani Laxmi Bai, Lucknow. 226001.

... Respondents.

C/R S.....

ORDER

Hon'ble Mr. S. Dayal, Member-A.

Shri S.C. Srivastava learned counsel for the applicant.

2. Learned counsel for the applicant mentioned that the applicant has been frequently transferred. In this connection he has cited case of B.U. Rao Vs. State of Karnataka, AIR 1986 SC 1955, in which it has been held that without sufficient reasons transfer can not be done in public

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interest and have to be held as malafide. He has also drawn attention to another case of Dr. Surendra Mohan Vs. State of U.P. and others (1996) 1 UPLBEC 21. It has been held in that case that the transfer is not in public interest and it is malafide.

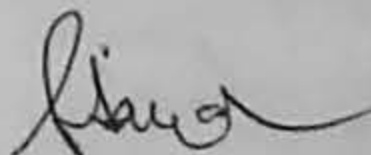
3. Learned counsel for the applicant has also submitted that the applicant was posted ~~for~~^{on a} four years station as per transfer guidelines enunciated in office memorandum no. 900/43/95-SCOR dated 19.05.95 a copy of this has been shown to me. It has been mentioned that centres given 1 star will have provisional tenure of two years, centres having two stars will have tenure of one year while centres with three stars will have tenure of four years. It is submitted by the learned counsel for the applicant that Varanasi which is at Sl. No. 43 is not categorised as one or two starred station and, therefore, of four years station. However, the applicant was transferred in less than two years.

4. The applicant has mentioned that he was transferred five times in seven years.

5. The facts of the case is that the applicant joined service on 11.05.89 and learned counsel for the applicant concedes that that he must be on probation of 2 years. First transfer in Jan 1990 and second transfer in July 1990 which is transfer on probation and the officer has to be under training during this period. The next three transfers were made in December 1993, May 1994 and March 1996. The first transfer after regular posting was made from Patna to Mau after nearly 3½ years. Next transfer was made from Mau to Varanasi and learned counsel for the applicant mentions that applicant joined on 16.01.94 at Mau and was, therefore, transfer was made within four months. The applicant did not ~~give~~^{make} any

objection to this transfer. The present transfer has been made after less than two years. It is not in my opinion ^{a transfer} that ~~it~~ would come within ^{category of} frequent transfers. Therefore, such transfer can not be considered to be made because of malafide intentions.

6. Learned counsel for the applicant mentions that the tenure of four years is not completed and the transfer has been made in less than two years. Such transfer can only be made against the guidelines and can not be treated either to be ^{against} public interest or because of malafide intentions. The station given to the applicant now appears to be one which is inconvenient and would be avoided by most employees but this ^{would} not make the transfer either ^{devoid} because of public interest or ^{for} reasons which are malafides. As a matter of fact, ^{posting to} many stations like Imphal would ^{eminently} immediately be ~~not~~ in public interest. I do not find any justification in application and, therefore, the applicant is dismissed in limine.


Member-A

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