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O.A. No.470/09

ORDER DATED 9th OCTOBER, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)
Hon'ble Mr. C.R. Mohapatra, Member (A)

Suresh Chandra Das Applicant.

Vs.

Union of India & Ors. Respondents.

The present O.A. has been filed challenging Annexure-A/7 dated 24.09.2009 wherein Director, Doordarshan Kendra, Bhubaneswar has been intimated to relieve the applicant of his duties to join All India Radio, Jaypore. It is the case of the applicant that earlier he had moved this Tribunal in O.A. No.242/09 challenging the order transferring him to All India Radio, Jaypore. This Tribunal, while disposing of this said O.A., in order dated 04.09.2009 observed as under:-

“Further it was contented that the applicant has the longest stay in the particular station at DDK, Bhubaneswar and as such his transfer is in no way irregular or illegal and the guidelines under Annexure-A/2 is advisory in nature but not obligatory in character and violation of any of the principle can hardly give any scope to the applicant to challenge the order of transfer which has been made in public interest and in the interest of administration. Heard Ld. Counsel for both sides on the above aspects and perused the materials placed on record. The competence of this Tribunal to interfere in the order of transfer which has been made in public interest unless the said order is actuated with mala

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fide exercise of power which is not the case of the applicant nor is it the case of the applicant that he is not holding transferable post. In view of the above I find no justifiable reason to interfere in the order of transfer. Hence this prayer of the Applicant is rejected."

2. However, this Tribunal had given an opportunity to the applicant to file a representation before the authorities considering the submission that these are vacancies nearby places, against which the applicant could be accommodated and in the event any such a representation is filed, the Respondents to consider and dispose of the same. The applicant, as it appears, has filed a representation at Annexure-A/5 dated 16.09.2009. According to applicant, the Respondent-Department, without considering his representation as directed by this Tribunal, issued the impugned order at Annexure-A/7 dated 24.09.2009, intimating the Director Doordarshan Kendra, Bhubaneswar to relieve him of his duties with a view to joining at All India Radio, Jeypore.

3. We have heard Mr. Samarendra Pattnaik, Ld. Counsel for the applicant and Mr. S. Barik, Ld. Counsel for the Respondents appearing on notice.

4. The main argument put forward by the applicant before us is that though this Tribunal allowed the applicant to file a representation and issued direction to consider and dispose of any such representation, if filed, with a reasoned order, yet the Respondent-Department without considering the same and being swayed away by the findings of the Tribunal

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that there being no justifiable reason to interfere with the transfer order, the O.A. No.242/09 had been dismissed, issued the impugned order at Annexure-A/7. Since the Tribunal had rejected the earlier O.A. wherein the transfer order had been assailed of, in our considered view, there remains nothing more to be adjudicated by this Tribunal in so far as his relief as per Annexure-A/7 in order to join AIR, Jeypore, is concerned. As regards the consideration and disposal of representation as directed by this Tribunal, it is up to the Respondents to consider the same in a manner as per the directives. We see that the applicant in his representation has cited the places of his choice where he wants a posting but it is not known as to whether there exists vacancies. Be that as it may, it is the authorities in the Department who are competent to decide who should be posted where and at what point of time. Thus, it is altogether a matter within the domain of the authorities to consider and the applicant does not have an indefeasible right to be posted as per his choice even if there exists vacancy.

5. In the above circumstances, the present O.A. is devoid of any merit and is dismissed. No costs.

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MEMBER (A)

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MEMBER (J)