

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH : JODHPUR

Date of order : 01.05.1998

O.A. No. 384/1997

Anil C Mathur son of Shri Gopal Chandra Mathur, aged about 36 years, resident of Khanda Falsa, Miyon-Ka-Chowk, Jodhpur, at present employed on the post Executive Engineer (Civil) Addl. Charge in the office of CCW AIR Jodhpur and Main Charge EE (C) in the Office of CCW, AIR, Jaipur.

... Petitioner.

versus

1. Union of India, through Secretary to Govt. of India, Ministry of Information and Broadcasting, Shastri Bhawan, Dr. Rajendra Prasad Marg, New Delhi.
2. Directorate General, All India Radio, Civil Construction Wing, 2nd Floor, PTI Building, Parliament Street, New Delhi.
3. The Chairman, The Prasar Bharti (Broadcasting Corporation of India), Copernicus Marg, New Delhi.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. K.S. Nahar, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

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O R D E R

(Per Hon'ble A.K. Misra)

Applicant, Anil C Mathur, has filed the present O.A. with the prayer that the impugned transfer order dated 10.10.1997 (Annexure A/1) be declared illegal and the same may be quashed. He has also prayed for staying the operation of the impugned transfer order till decision of the O.A. as an interim relief.

2. After hearing the learned counsel for the applicant, dasti notices were issued to the respondents and in the meantime, the operation of the transfer order at Annexure A/1 dated 10.10.1997 was stayed.
3. The respondents have filed the reply in which they have stated that the transfer of the applicant has been ordered for administrative reason and in exigencies of service. The applicant has no case and the

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present O.A. deserves to be rejected.

4. I have heard the learned counsel for the parties and have gone through the records.

5. As per the direction of the Tribunal dated 1.4.98, departmental file relating to the transfer of the applicant was also submitted for my perusal, which was perused and returned back to the counsel for the respondents-department after dictating the order.

6. It was argued by the learned counsel for the applicant that the applicant was transferred to Jaipur only in the month of January, 1997 on promotion. He has not been allowed to complete his normal tenure of four years and without any reason whatsoever he has been again transferred to Delhi within a short spell. His family problems were also ignored and departmental guidelines for transfer was violated. Therefore, the transfer order deserves to be quashed.

7. On the other hand, it was argued by the learned counsel for the respondents that the applicant has All India transfer liability. Mandatory guidelines or statutory rules in respect of transfer were not violated as there are none. Departmental guidelines or any administrative instructions <sup>do not</sup> confer any right on the applicant relating to his transfer or staying at the present place. In exigencies of service and for administrative reasons, the officials of the department can be transferred at any time. It is not necessary that they are to be retained at a particular place for a minimum number of years, as mentioned in the departmental guidelines. The applicant has not mentioned any fact relating to mala fide transfer or colourable exercise of power. Therefore, the transfer of the applicant cannot be interferred with and the O.A. deserves to be rejected.

8. I have given my thoughtful consideration to the rival arguments. The applicant has challenged his transfer only on one ground that he is being transferred before the completion of 4 years term at Jaipur and to accommodate one Shri B.K. Misra. Transfer of Shri B.K. Misra in place of the applicant has been cancelled by the department as is clear from the order dated 19.12.1997, a copy of which was produced before me today. Therefore, the ground that Shri B.K. Misra is being adjusted and the applicant is being disturbed comes to an end. The applicant has not levelled any allegation in respect of his transfer being mala fide or colourable exercise of power. Therefore, in my opinion, keeping in view

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the rules laid down by Hon'ble the Supreme Court from time to time, the present transfer of the applicant cannot be interferred with.

9. The departmental guidelines do not confer any right on the applicant and therefore, on the basis of the guidelines, the applicant cannot claim that he should be permitted to complete his tenure of 4 years at the present place of posting. The guidelines provide that normally a person can be allowed to stay for 4 years at a particular station of group 'A' and 'B' category. But that does not mean that in all circumstances, such person should be allowed to continue at that station for a number of years as prescribed. In exigencies of service or for administrative reasons, any officer of the respondent-department can be transferred from one place to another. In the instant case, after going through the department file relating to transfer of the applicant, I come to the conclusion that there are adequate administrative reasons to transfer the applicant from Jaipur to Delhi. The applicant has filed a representation to the departmental authorities in which he has mentioned certain personal problems. In my opinion, the departmental interests are superior to the personal interests of the applicant. The present difficulties, which the applicant has narrated in his representation, are not such which had come up very ~~suddenly~~. Applicant's brother-in-law died in march, 1994, when the applicant was not posted at Jaipur. The applicant has not disclosed as to when his brother had died. While I have got all the sympathy with him, but, so far as these two incidents, I am not convinced that for these reasons alone, the applicant is required to be retained at Jaipur. The academic session has also come to an end and therefore further prolonging the stay order dated 18.12.1997 granted by this Tribunal, is also not necessary.

10. Keeping in view all the above discussions, in my opinion, the applicant has not been able to make out a case for quashing the orders at Annexure A/1 dated 10.10.1997 and Annexure A/6 dated 9.12.1997 and directing the department to retain the applicant. The present application, therefore, deserves to be dismissed and is hereby dismissed at the stage of admission. The stay order granted on 18.12.1997 stands vacated.

11. Parties are left to bear their own costs.

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(A.K. MISRA)  
Judicial member

cvr.