

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No. 417 of 2012

Tuesday..., this the ...19th day of June 2012

C O R A M :

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

Sunny Joseph,
Senior Engineering Assistant,
Doordarshan Kendra, Kudappanakunnu P.O.,
Thiruvananthapuram – 695 043.
Residing at Kalliyadickal House,
KP 1/774(1), Madankovil Line,
Muttada P.O., Thiruvananthapuram – 695 025.Applicant

(By Advocate – Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Secretary,
Ministry of Information & Broadcasting,
Government of India, Shastri Bhavan,
New Delhi – 110 001.
2. The Chief Executive Officer (CEO),
Prasar Bharati, Prasar Bharati Secretariat,
2nd Floor, PTI Building, Sansad Marg,
New Delhi – 110 001.
3. The Director General, Doordarshan,
Doordarshan Bhavan, Copernicus Marg,
Mandi House, New Delhi – 110 001.
4. The Director General, All India Radio,
Akashavani Bhavan, Parliament Street,
New Delhi – 110 001.
5. The Additional Director General (ENGG) (SZ),
All India Radio and Doordarshan,
Swami Sivanantha Salai, Chennai – 600 005.
6. The Deputy Director General (P),
(The Former Director), Doordarshan Kendra,
Kudappanakunnu PO, Thiruvananthapuram – 695 043.

7. The Deputy Director General (Engg.),
(The Superintending Engineer),
Doordarshan Kendra, Kudappanakunnu P.O.,
Thiruvananthapuram – 695 043. ...Respondents

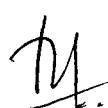
(By Advocates - Mrs.Jishamol Cleetus,ACGSC [R1-5]
& Mr.NN Sugunapalan,Sr. with Mr.S Sujin [R6-7])

The application having been heard on 14.06.2012, the Tribunal on
19.06.2012 delivered the following :-

ORDER

The applicant is aggrieved by his transfer from DDK Trivandrum to AIR Trivandrum.

2. This is the second round of litigation. The applicant moved O.A 833/10 when he was transferred from Trivandrum DDK to DMC Port Blair and later on TVRC Tuticorin. The Original Application was allowed vide order dated 17.02.2011 and the third respondent was directed to examine his request for retention at Trivandrum since his son is suffering from Left Hemiplegic Spastic Cerebral Palsy till his son attains the age of 18 years. It was suggested in para 10 of the aforesaid O.A that if administrative exigency demands, the applicant can be rotated between DDK Trivandrum and AIR Trivandrum. The respondents, in their general rotation transfer in 2012, have transferred the official to AIR Trivandrum. Now the applicant comes up with a plea that the third respondent has not issued any speaking order within a time line of 4 months as directed by this Tribunal. The applicant takes up the ground that the working hours in AIR Trivandrum, is not suitable to take his son for the special training at the



Institute for Communicative and Cognitive Neurosciences, Trivandrum between 08.45 a.m to 10.30 a.m and later on to K.V Pattom for the second shift from 12.30 to 6 p.m. When he was working at DDK Trivandrum the office is very nearer to the applicant's house and he availed evening shift duty so as to attend to his son from 08.45 a.m to 12.30. He avers that his wife is a Manager in SBI and her working hours are from 9 a.m to 08.30 p.m and hence she is not able to take their son for the special training. Therefore, he requests for further consideration by the third respondent about his retention in DDK, Trivandrum itself till his son becomes 18 years old. The applicant points out that one Mr.B Sudhakaran is retained at DDK Trivandrum since 1997 on the ground of medical treatment being required by his son. Therefore, the applicant is entitled for a similar treatment. Moreover, there are other persons like Shri D Chandra Babu and Mr.Sreekumaran Nair who stand transferred from AIR Trivandrum and are retained in view of a stay from this Tribunal. The applicant avers that as per Annexure A-8, inter-directorate transfers between AIR and DDK can be issued by Prasar Bharathi Secretariate only after obtaining the approval of the CEO Prasar Bharati. Therefore, he is transferred in violation of the transfer policy guidelines as contained in the office order dated 18.01.2011 of Prasar Bharathi Secretariat.

3. The respondents contested the Original Application and filed reply statement. Respondents submitted that a copy of the Prasar Bharathi Secretariat Notification dated 11.05.12 marked as Annexure R-3 is kept under abeyance and it is done on a representation given by the

A handwritten signature in black ink, appearing to be 'D.M.' or a similar initials.

Association of employees. Transfer Order dated 07.05.12 where the name of the applicant appears is not kept under abeyance. They pointed out that to effect transfer of subordinate engineering staff, approval of CEO, Prasar Bharati is not required. The Zonal ADG is competent to issue posting orders of Junior Engineering officials as per the order dated 18.01.12 and hence the contention of the applicant that there is violation of the transfer policy guidelines is baseless. It is only for those who are posted at Headquarters of Delhi that CEO's approval is required for inter-directorate transfer. The respondents further add that Shri G Sudhakaran's son has more than 80% mental disability and is bed-ridden whereas the applicant's son's disability is only to the extent of 45% and he is attending school. The respondents submitted that in compliance of the order of this Tribunal in O.A 833/10, the applicant was retained at DDK Trivandrum for one more year and was shifted only when general rotational transfer was effected. In fact, the applicant has worked in DDK Trivandrum with effect from 27.01.2004 and has completed 8 years and 3 months as on 08.05.12, when he was relieved. The fact about his relief was not projected before the Tribunal and hence status quo was ordered. When the transfer order was handed over in person on 08.05.12, he refused to accept it and hence it was sent by speed post as seen at Annexure R-2. When the applicant came to know about his transfer, he proceeded on leave. The respondents relied on the judgment of the Hon'ble Supreme Court in the case of **S.C Saxena versus Union of India and another** wherein it was observed "A Government servant cannot disobey a transfer by not reporting at the place of posting and then go to court to ventilate his grievance. It is his

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duty to first report for work where he is transferred and make a representation as to what may be his personal problems. Such tendency of not reporting at place of posting and indulging in litigation needs to be curbed."

4. The applicant filed rejoinder and produced a copy of the order of this Tribunal in O.A No.444/10. In the case of the applicant in this O.A viz; Shri D Chandra Babu, the respondents made a submission that his transfer order was cancelled and he was permitted to continue at Trivandrum. According to the applicant, Shri D Chandrababu is commuting daily from Kayamkulam to Trivandrum eventhough he is retained on the ground of his disability at DDK Trivandrum.

5. Arguments were heard and records perused.

6. In the first round of litigation the applicant's transfer from DDK Trivandrum to Tuticorin was quashed by this Tribunal in view of the medical and schooling requirements of his disabled son. The third respondent in the aforesaid O.A was directed to examine the issue of retention of the applicant till his son attains the age of 18 years. The Tribunal also gave liberty to the respondents to post him to AIR Trivandrum in case further retention at DDK Trivandrum is not possible due to operational reasons. Therefore, in my view, the applicant should not have any further grievance. However, he avers that he is put to great inconvenience due to the working hours observed by AIR, Trivandrum.

TY.

The shift duty he could attend at DDK was more suitable to him and he was able to take his son for treatment at 8:45 a.m and to his school. In view of the fact that the respondents have followed the suggestion given by this Tribunal, no further intervention is warranted. Hence the best course of action for the applicant is to join AIR Trivandrum and submit a representation to the third respondent for further examination of the issue of his retention at DDK Trivandrum for another 8 years.

7. In view of the foregoing, the interim order is vacated. The applicant is advised to join AIR Trivandrum and submit his representation to the third respondent for consideration of his request for retention at DDK Trivandrum on compassionate and spouse grounds. The third respondent is directed to consider his request, take an appropriate decision and issue a speaking order to the applicant expeditiously, at any rate, within three months from the date of receipt of his representation. The Original Application is disposed of with the above direction. No costs.

(Dated this the 19th day of June, 2012)


(K NOORJEHAN)
ADMINISTRATIVE MEMBER

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