

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 429/2010

Dated this the 30th day of November, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

P. Krishna Kumar S/o M. Prabhakaran Nair
Assistant Surveyor of Works (Civil)
Civil Construction Wing, All India Radio &
Doordarshan, Kakkanad, Kochi-682 037
residing at Shreyas, APRA 35-A, Pully Lane
Chackal, Thiruvananthapuram-24

..Applicant

By Advocate Mr. P. Gopinatha Menon

Vs

1 The Prasar Bharathi
Akashvani Bhavan
New Delhi rep. By its Director General

2 The Chief Engineer (Civil)
Civil Construction Wing
All India Radio, New delhi.

3 The Executive Engineer (Cilvil)
Civil Construction Wingh
All India Radio
Kakkanad, Kochi-37

..Respondents

By Advocate Mr. Sunil Jacob Jose, SCGSC

The Application having been heard on 25.11.2010, the Tribunal delivered the following

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, an Assistant Surveyor of Works (Civil), All India Radio, is challenging his transfer from Cochin to Port Blair on the ground of violation of the transfer norms.

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2 The brief facts are that, the applicant is working as Assistant Surveyor of Works (Civil) Construction Wing, All India Radio, Kakkanad, Kochi-37. While he was working at New Delhi, he was transferred to Kochi on request w.e.f. 22.12.2008. He has completed only one year and three months in the new station whereas, the minimum tenure period fixed as per the norms is four years. Aggrieved, he had filed O.A. 345/2010 before the Tribunal challenging the transfer order which was disposed of directing the respondents to consider the representation to be submitted by the applicant and stayed the operation of the transfer order till the disposal of the representation. Now that his request for retention in Kerala is rejected, he has filed this O.A seeking to quash the transfer order as it is illegal, arbitrary and vitiated by errors apparent on the face of the record, it is without authority of law, without jurisdiction and ultra vires the transfer norms, it is violative of the clause (ii) of the transfer policy of tenure period of 4 years, violative of clause (ix) according to which a person with the longest continuous stay at the station should ordinarily be transferred first, the representation was not considered by the competent authority, with due application of mind.

3 The respondents in the reply statement submitted that out of the total 19 years of service as AE(Civil) the applicant had served around 15 years in Kerala. He was transferred to New Delhi only on 15.12.2008. Immediately on reaching Delhi, he submitted a representation for transfer back to Kerala on personal ground, and accordingly he was transferred to Kerala along with a post, since no vacancy was available. They submitted that the present transfer from Kochi to Port Blair has been ordered on the exigencies of service. They further submitted that the Chief Engineer is the competent authority as far as transfer of the applicant is concerned, his transfer to Kerala from Delhi itself was against the transfer norms and purely on compassionate grounds, therefore he cannot now raise the same, his case cannot be compared with others who are posted against sanctioned strength. They further submitted that the impugned order at Annexure A-5 is a speaking order. Out of the two lady incumbents who

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have completed their tenure in Kerala, one is undergoing treatment for cancer and the other is also a victim of cancer. Therefore, they were retained on extreme compassionate grounds to facilitate proper medical care.

4 The applicant filed rejoinder reiterating the averments in the O.A.

5 We have heard learned counsel for the parties and perused the pleadings.

6 Transfer of an employee is an incident of service. An employee has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one particular place or other. It is the prerogative of the departmental authorities to decide who is suitable to be posted in a particular place. An employee is therefore, liable to be transferred on the administrative exigencies from one place to another. Ordinarily, the Courts/Tribunals would not interfere in the transfer of an employee unless there is any malafide intention alleged and proved against the departmental authorities. In the case of the applicant, it is admitted that the respondents allowed him to continue in Kerala for 15 years out of his 19 years of service and having an all India service liability, he can be transferred anywhere in India. The applicant has not raised the ground of malice against any authority. The learned counsel for the applicant requested for one more opportunity to submit a request for a nearby state, in view of ensuing vacancies in Bangalore. I am sure he is at liberty to do so and the respondents will consider his request and take appropriate decision.

7 However, in view of the averments in the reply statement and keeping in mind the dictum laid down by the Apex Court in transfer matter, I do not find any illegality in the transfer order at Annexure A-5. None of the grounds raised is tenable. Accordingly, the O.A is dismissed. No costs.

Dated 30th November, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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