

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 6/2011

Dated this the 14th day of June, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

K.Mohanrajan, S/o Krishnan Diesel Technician,
All India Radio, Calicut, Kerala - 673032.

.Applicant

By Advocate Mr. P.K.Ramkumar

Vs

- 1 Union of India represented by Secretary,
Ministry of Information & Broadcasting
Govt of India, New Delhi.
- 2 The Director General, All India Radio, New Delhi.
- 3 The Chief Engineer (SZ) All India Radio & TV,
Swami Sivananda Salai, Chennai-600005.

Respondents

By Advocate Mr.Sunil Jacob Jose, SCGSC

The Application having been heard on 7.6.2011, the Tribunal delivered the following

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a Diesel Technician, All India Radio, is challenging his transfer from Calicut to Kannur on the ground of violation of the transfer policy norms.

- 2 The brief facts of the case as stated by the applicant are that he is a locally recruited employee who is not liable for out of station transfer. He was initially appointed as Diesel Engine Driver and subsequently promoted as Diesel Technician. According to him as per

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notification dated 30.3.1970 at Schedule 7 page 123, Diesel Technician, a selection post is not transferable. However, by the impugned order Annexure-A1, the respondents have transferred the applicant to Kannur violating the transfer norms. The representation submitted by the applicant was not considered by the competent authority, with due application of mind. He further submitted that he is a Kidney patient and his wife is an employee of Tamil Nadu Government presently posted at Coimbatore. He has the liability to look after his ailing mother and mother-in-law. His children are studying in private school at Calicut. Therefore, he has sought a declaration that the transfer order is illegal so as to allow him to continue at Calicut.

3 The respondents in the reply statement submitted that the applicant was initially appointed in the post of Diesel Engine Driver on 20.2.1984 at AIR Calicut. Subsequently he was promoted as Diesel Technician on 30.10.89 against the vacancy at AIR, Calicut. Later he was transferred to AIR Kannur on 10.6.2002 and on completion of his tenure he was transferred back to Calicut on 11.7.2006. They further submitted that Sh.Valsarajan was appointed as Diesel Engine Driver on 20.2.1984 at AIR, Calicut along with the applicant and on promotion as Diesel Technician he was posted at AIR Kannur on 31.5.90. Thereafter on his request he was transferred to AIR Calicut on 1.6.2000. Again in order to accommodate the applicant at AIR Calicut, Sh.Valsarajan was transferred to AIR, Kannur. They further submitted that Sh Valsarajan who is on the verge of retirement in August 2012 has requested for a transfer to Calicut which is near to his native place. Considering all the aspects the transfer order was issued by the competent authority in a fair and legal manner. It is further submitted

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that the transfer order was issued in accordance with the recruitment rules and the transfer policy. Diesel Engine Driver is a locally recruited cadre whereas Diesel Technician is a higher post in the promotional cadre which is filled by the Diesel Engine Drivers on promotion on Zonal basis. The South Zone consists of the States Tamil Nadu, Andhra Pradesh, Karnataka, Kerala and Union Territories such as Puducherry, Andaman & Nicobar Islands, Lakshadweep Island and Kavaratti. Depending on the availability of vacancy, on promotion posting can be made to any place in South Zone. However, the applicant was accommodated at Calicut and Kannur ever since his promotion as Diesel Technician. They have denied any malafide intention on the part of the respondents in issuing the impugned order.

4 Heard learned counsel for the parties and perused the record.

5 During the course of argument the counsel for the applicant invited my attention to Annx.A2 which is the recruitment rules for Diesel Technician where the remark against column 8 is, 'transfer, is not applicable'. Hence he argues that the applicant has no transfer liability. His contention cannot be accepted as the Diesel Engine Driver is a locally recruited cadre whereas Diesel Technician post which he is presently holding lies in the promotional cadre from the Diesel Engine Drivers promoted on zonal basis. They are promoted and posted to any place where the vacancy arises in the zone, in the case of the applicant, south zone. The applicant has not raised any objection in the year 2002 when he was transferred and posted at Kannur. Annx.A5 shows that he has to take care of his children who are studying in the 10th and 11th Classes, as his wife is working at Combatore. It is seen that on his transfer to Calicut in 2006 Sh.Valsarajan was sent to

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Kannur. The latter is superannuating in 2012 while the applicant has 7 more years of service. Therefore, the respondents may have entertained Sh.Vaslsarajan's request favourably in the interest of staff welfare. Therefore, I do not find any need for interference.

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.

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-1. None of the grounds raised is tenable. Accordingly, the O.A is dismissed. No costs.

Dated 14th June, 2011


K. NOORJEHAN

ADMINISTRATIVE MEMBER

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