

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 607/99

Wednesday, this the 2nd day of June, 1999.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

T. Nanakan,
S/o. T. Damodaran,
Working as Executive Engineer,
Civil Construction Wing,
All India Radio,
Thiruvananthapuram,
(Residing at AN 73, Adarsh Nagar, TC.2/2208,
P.O. Pattom, Thiruvananthapuram - 14.)

...Applicant

By Advocate Mr. T.P.M. Ibrahim Khan

Vs.

1. The Superintendent of Police,
Central Bureau of Investigation,
Kathrikadavu Road, Kaloore,
Ernakulam, Kochi - 682 017.
2. The Station Director,
All India Radio,
Thiruvananthapuram.
3. The Director General,
Civil Construction Wing,
All India Radio,
Parliament Street,
New Delhi - 110 001.
4. The Chief Engineer,
Civil Construction Wing,
All India Radio,
Parliament Street,
New Delhi - 110 001.
5. The Director General of Police,
Kerala, Thiruvananthapuram.
6. Smt. Mariamma Alexander,
Head Clerk, Office of the
Executive Engineer,
Civil Construction Wing,
All India Radio,
Thiruvananthapuram.
7. M.B.A. Khan,
Executive Engineer,
Civil Construction Wing,
All India Radio,
Madurai.

...Respondents

By Advocate Mr. Govindh K. Bharathan, SCGSC for R-2, 3 & 4

The application having been heard on 2.6.99, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

The applicant, presently working as Executive Engineer, Civil Construction Wing, All India Radio, Thiruvananthapuram, has filed this application impugning the order dated 5th May, 1999, Annexure A-1 issued by the third respondent by which he stands transferred from Thiruvananthapuram to Chennai. It is alleged in the application that the sixth respondent, who is a Head Clerk in the Office of the Executive Engineer, Civil Construction Wing, Thiruvananthapuram, being enraged by the applicant's issuance of a memorandum of charge to her for dereliction of duty made a complaint against the applicant before the first respondent who conducted a raid in the Office of the applicant as also in his residence, that she has sent complaints to other respondents alleging harassment by the applicant and that the impugned order of transfer is the cumulative effect of all these. According to the applicant, the impugned order has been issued as a result of the influence of the sixth respondent who is enmically disposed of towards him. It is alleged further that as the applicant has not completed the usual tenure of four years, the transfer is in violation of the norms. With these allegations, the applicant has prayed that the impugned order of transfer may be set aside to the extent it relates to him.

2. I have gone through the averments in the application and other materials made available and I have heard the learned counsel for the applicant and the learned counsel for respondents 2, 3 & 4. It is stated by the learned counsel for

respondents 2 to 4 that the impugned order of transfer is a transfer in public interest and the averments made in the application have no nexus with the impugned order.

3. Giving the facts and circumstances revealed in the application my anxious consideration, I find that the application doesnot merit to be admitted. It is too much even to suspect that the Director General, Civil Construction Wing, All India Radio, Delhi could be influenced by the sixth respondent who is only a Head Clerk in the Office of the Executive Engineer, Thiruvananthapuram. The fact that the applicant has issued a memorandum of charge to the sixth respondent and that the sixth respondent had made allegations against the applicant of harassment have practically no nexus with the transfer and posting of officers including the applicant made in the impugned order, Annexure A-1. Transfer is an incident of service and as and when public interest demands, even against the guidelines and personal convenience, the competent authority may have to issue orders of transfer. The non-observance of guidelines, therefore, will not clothe an employee holding a transferrable post, a legally enforceable right against Administrative Orders like transfer. As there is no allegation of mala fides against the competent authority who issued orders of transfer and as no allegation of violation of Statutory Rules has been made, I am of the considered view that the application deserves to be rejected. Therefore, I do so.

4. Accordingly, the O.A. is dismissed. No costs.

Dated the 2nd day of June, 1999.



A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES REFERRED TO IN THE ORDER

Annexure A-1:

Photostat copy of the Order No.16/99 (No.A-22012/1/99-CW-1/747) dated 5.5.1999 issued by the fourth respondent on behalf of the third respondent.