

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A No. 620/2011

Friday, this the 14th day of September, 2012.

**CORAM**

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

**M.A.Dilip, S/o late K.A.Kodungallur,  
Assistant Station Director,  
Junior Time Scale at Doordarshan Kendra,  
Thiruvananthapuram,  
Residing at MARS-No.6, Anand Nagar,  
Kudapanakunnu.P.O.  
Thiruvananthapuram-695 043.**

- Applicant

**(By Advocate Mr Lal K Joseph)**

**v.**

- 1. Union of India rep. by its Secretary  
to Government of India,  
Ministry of Information & Broadcasting,  
Sasthi Bhavan, New Delhi-110 001.**
  - 2. Prasar Bharathi Broadcasting  
Corporation of India rep. by its Chief  
Executive Officer, PTA Building,  
New Delhi.**
  - 3. The Director General of Doordarshan,  
Doordarshan Bhavan, Copernicus Marg,  
New Delhi-110 001.**
  - 4. The Deputy Director (Admn),  
Directorate General of Doordarshan,  
Doordarshan Bhavan,  
Copernicus Marg, New Delhi-110 001.**
  - 5. The Director,  
Doordarshan Kendra, Kudapanakunnu,  
Thiruvananthapuram-695 043.**
- Respondents

**(By Advocate Mr Varghese P Thomas, ACGSC for R.1)**



(By Advocate Mr NN Sugunapalan Senior with Mr S Sujin for R. 2 to 5)

This application having been finally heard on 11.09.2012, the Tribunal on 14.09.2012 delivered the following:

**ORDER**

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

The applicant, a JTS Officer functioning in the respondents' organization, is aggrieved by Annexure A-2 order dated 10<sup>th</sup> June, 2011 whereby he has been transferred from Thiruvananthapuram to Mumbai. The grievance of the applicant is mainly on the following twin reasons:

(a) His transfer has been ordered after cancelling transfer order of one Shri Beiju Chandran, ASD, DDK from Thiruvananthapuram to Mumbai.

(b) the applicant has been trained in Production faculty whereas now he is being shifted to a totally new field, Marketing Division.

2. In addition to the above, a number of other grounds have also been raised. The applicant has sought the following reliefs: –

(i) Declare that the applicant has the right to continue at Doordarshan Kendra Thiruvananthapuram without being transferred to Marketing Division of Prasar Bharati at Mumbai.

(ii) Call for the records leading to Annexure A2 order No.43/2011-SIII dated 10.6.2011 issued by the 4<sup>th</sup> respondent and set aside the



same to the extent it orders the transfer of the applicant from Doordarshan Kendra, Thiruvananthapuram to Marketing Division, Mumbai.

(iii) Direct the respondents not to transfer the applicant from Doordarshan Kendra, Thiruvananthapuram to Marketing Division, Mumbai pursuant to Annexure A2 order.

(iv) Issue any other orders, declaration or direction appropriate in the circumstances of the case; and

(v) Order costs of this Original Application.

3. Respondents have contested the O.A. According to them, out of a total of 187 sanctioned posts of officers in the JTS, only 45 officers have been positioned. There is an immediate requirement of atleast one JTS level officer at Mumbai. The transfer has been effected in administrative need and exigency.

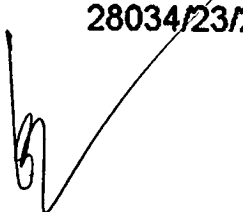
4. Counsel for the applicant argued that the applicant has no exposure to the marketing field and the training imparted to the applicant has been only in the Production Wing. Posting the applicant should not have been made and volunteers were asked for vide Annexure A-7. Further, initially another officer had been shifted to Mumbai, and on his representation, his transfer has been cancelled and the applicant has been disturbed.

5. Counsel for the respondents submitted that the other officer, who was initially transferred to Mumbai has made a representation for



cancellation on spouse ground (as the spouse is also employed in DDK) and considering the grounds, the said officer's transfer has been cancelled. There are as many as 10 sanctioned posts of JTS level at Mumbai whereas no one has been positioned. Compared to the same, Thiruvananthapuram has only four sanctioned posts. Since three posts have been filled up there, it was felt expedient to transfer one of them to Mumbai.

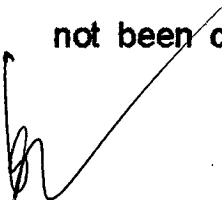
6. Arguments were heard and documents perused. Transfer, as is well known, is an incidence of service. Who should be posted where, has to be left to the authorities concerned. Once administrative exigency warrants posting of someone to a particular place, the decision of the Department should not be ordinarily interfered with under judicial review save when the transfer is proved to be either accentuated by an act of mala fide, or by an incompetent authority or is violative of transfer guidelines. In the instant case, the necessity to fill up at least one post at Mumbai was felt by the respondents as a sequel of which one officer stood transferred. Since mainly on spouse ground the said officer requested for cancellation of the same, respondents have considered this as a representation and acceded to the request of the officer. This decision of cancellation of transfer of the other officer and posting him in the same place where the spouse is posted, appears to be in conformity with the guidelines of transfer as spelt out in the Department of Personnel OM No. 28034/7/86/Estt.A dated 3<sup>rd</sup> April, 1986, reiterated by the said Department vide OM No. 28034/23/2004-Estt(A) dated 23<sup>rd</sup> August, 2004. The words used therein



are, *"It is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No.28034/7/86/Estt.A dated 3<sup>rd</sup> April, 1986 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, .....* " (emphasis supplied). Thus, no fault could be found in respect of cancellation of the earlier transfer order of the other officer.

7. What is left is whether the administrative exigencies warrant shifting of the applicant. The staff strength of the posts at JTS level has been furnished by the respondent and the situation at Mumbai with 10 sanctioned strength and none positioned, does justify posting of at least one individual. If the respondents have chosen to post out one individual from Thiruvananthapuram, that decision cannot be interfered with. The question is only whether the applicant could be transferred when he has got no exposure in marketing line and that he has expertise in production wing.

8. To a pointed question whether separate seniority list is maintained in respect of marketing division, counsel for the applicant replied in the negative. Again, as regards training there is no separate training for those placed in marketing division. Since all the posts at JTS level are considered uniformly, there being no distinction in respect of Production Wing and the Marketing Division, there is absolutely no bar in shifting an officer from Production Wing to Marketing Division and vice versa. It has not been canvassed by the counsel that in respect of those serving at



Thiruvananthapuram, one of the other two should have been transferred.

9. In view of the above there appears no merit in the original application and as such the same deserves only dismissal which is accordingly ordered.

10. No costs.



**Dr K.B.S.RAJAN**  
**JUDICIAL MEMBER**

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