

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 231 of 2005

Wednesday, this the 13th day of September, 2005

C O R A M :

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

T.O. Wilson,
S/o. Late T.A. Ouseph,
Lower Division Clerk,
All India Radio, Trissur,
Residing at : Thakkadan House,
Kurichikkara P.O.,
Ponganamkadu, Trichur Dist.

...

Applicant.

(By Advocate Mr. T.C. Govindaswamy)

v e r s u s

1. Union of India, Represented by
The Secretary to the Government of India,
Ministry of Information and Broadcasting,
New Delhi.
2. The Director General,
All India Radio,
Prasar Bharathi (Broadcasting Corporation of India),
New Delhi.
3. The Deputy Director General,
All India Radio, Air Complex,
Raj Bhavan Road, Bangalore - 1.
4. The Station Director,
All India Radio, Trivandrum - 14.
5. The Station Engineer,
All India Radio, Trichur.
6. Sunny Antony,
Lower Division Clerk,
All India Radio, Kannur.

7. Kamal Nath,
The Station Director,
All India Radio, Trivandrum – 14. ... Respondents.


(By Advocate Mr. T.P.M. Ibrahim han, SCGSC)

ORDER
HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

The applicant has challenged the order of transfer dated 29-03-2005 from Trichur to Kannur, vide Annexure A-1 order.

2. The facts of the case as contained in the OA are as under:-

(a) The applicant is a Lower Division Clerk (LDC, for short) presently working in the All India Radio, Trichur. The sixth respondent was working as LDC in the All India Radio Station earlier. He was the longest stayee at Trichur and when redeployment was necessitated, he was transferred to Kannur as per the policy in vogue. After a week, another order was issued cancelling the orders of such redeployment, except as regards those who had willingly carried out the transfer. The sixth respondent did not seek a transfer back then, nor did he seek a retention back at Trichur. Now, by Annexure A/1 order No. TVM-1(10)/2005-S dated 29.3.2005, the sixth respondent is transferred to the applicant's place and the applicant is transferred to Kannur. It is not on request. Low paid employees like the applicant are not liable to be transferred except on request or on promotion, or on extreme administrative exigencies. In the instant case, no such conditions are satisfied and the applicant is transferred only out of extreme

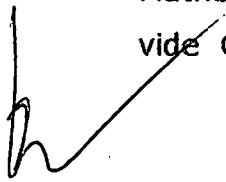


favouritism shown to the sixth respondent. The Annexure A/1 is dated 29.3.2005 at Trivandrum. On the very same day without even receiving a copy of the same by any authorized channel of communication, the sixth respondent is understood to have been relieved and even in the absence of communication of an authenticated copy of the transfer order, the applicant is attempted to be relieved by fifth respondent. Those attempt on the part of fifth to seventh respondents smacks or arbitrariness and illegalities. The applicant is a native of Trichur and elder a daughter and other a son, are studying at Trichur (now on promotion in 10th and 6th respectively). If the order of transfer is enforced substantial prejudice and loss would be caused to the applicant and his family members. Hence, this application.

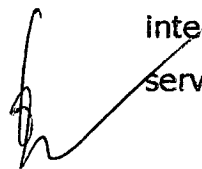
3. The respondents contest the OA and their contentions are as under:-

(a) The applicant has got longest stay at among other LDCs working in 5th respondent's office. As per the transfer policy, the person with longest stay in a particular station irrespective of rank (s) should be transferred first.

(b) Two posts of LDC had been shifted from All India Radio, Thrissur to All India Radio, Kannur and Devikulam vide Director General, All India Radio, New Delhi (2nd respondent) order No. 4/19 (vii)/99-S.II dated 29.05.2000. Accordingly, the senior most persons viz. Sri K. Sunny Antony, Lower Division Clerk was transferred from All India Radio, Thrissur to All India Radio, Kannur and Smt. Jaya Mathew, LDC, All India Radio, Thrissur, to All India Radio, Devikulam vide Order No. TVM-1(10)2000-S dated 20.06.2000. As per the



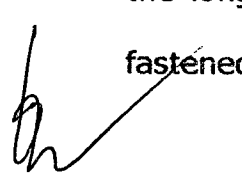
transfer policy, All India Radio, Devikulam, is a category 'C' station i.e. A difficult station. The tenure is 2 years whereas the places viz Kannur is other than category 'C' station. Hence normal tenure to that station is 4 years. After transferring of Shri K. Sunny Antony from All India Radio, Thrissur to All India Radio, Kannur, and on completion of 4 years he has applied for a transfer back to All India Radio, Thrissur, vide his representations dated 18.1.2005 and 23.2.2005. The 4th respondent has considered his representation and it has been decided to transfer the next senior most available person at All India Radio, Thrissur, i.e. the applicant. Those who have been transferred on the same basis to All India Radio, Devikulam, has already got back their transfer to All India Radio, Thrissur, on completion of the tenure period of two years. The transfer order has been issued taking into account the transfer policy of the Department and no violation of any kind has been occurred nor has any natural injustice has been done against the applicant. He is working in Thrissur from 5.12.1984 i.e., more than 21 years. The order has been issued after ascertaining the details of longest stay amongst the LDCs working in All India Radio, Thrissur. The transfer is purely a routine administrative matter, since there is no violation took place either in transfer policy or in natural justice and there are no grounds for quashing the order. Shri Sunny Antony was already relieved from All India Radio, Kannur and reported at All India Radio, Thrissur, vide No. TRC-21(SAK)2005/S/6366 to 6372 dated 30.3.2005 (Annexure R/4). The applicant holds a Group-C Non-Gazetted post of Lower Division Clerk which carries All Kerala transfer liability and, therefore, he can be transferred anywhere in Kerala in the interest of work. It is for the employer to decide as to how the services of a particular employee can be best utilised.



4. The applicant has filed the rejoinder in which he had reiterated the contentions as in the OA and in addition, stated that the earlier transfer of the party respondent was due to redeployment and not under routine transfer policy.

5. Arguments were heard and documents perused. The counsel for the applicant invited my attention to all the grounds raised in the OA.

6. The fact is that the applicant has been in Trichur since 1984 in his capacity as a group D employee first and Group C thereafter. And, as per the order in OA 1051/01 filed by the applicant as referred to in the reply, the period spent as Group D official cannot be taken into account while working out the station seniority. As such, the remaining period from 12-01-1992 when the applicant was promoted as Group C, works out to 13 years in the post of LDC. Admittedly, he is the longest stayee at Trichur in the grade of LDC. Transfer policy prescribes a period of 4 years in respect of 'A' and 'B' stations (in which both Trichur and Kannur fall). Action of respondent in considering the case of the party respondent for his transfer back to Trichur after he had spent four years cannot be faulted with and while considering the same, if the longest stayee has to be posted out, and the applicant being the longest stay has been posted out, no irregularity or illegality could be fastened to the order of transfer. Consideration of the request of party



respondent and accommodating him at Trichur cannot be faulted with. In this regard, the decision of the Apex Court in the case of **Shilpi Bose (Mrs) v. State of Bihar, 1991 Supp (2) SCC 659**, applies and the same reads as under:-

" If the competent authority issued transfer orders with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interfered by the court merely because the transfer orders were passed on the request of the employees concerned."

7. Applicant has already moved as per the impugned order, vide Annexure R-7, read with para 12 of the Additional reply.
8. In view of the above, the OA being devoid of merits, merits only dismissal and it is accordingly ordered. No costs.

(Dated, the 13th Sept, 2006)


K B S RAJAN
JUDICIAL MEMBER

cvr.