

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.242/07

Friday this the 27th day of April 2007

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

M.Jahir Huzane,
S/o.late M.Mohammed Sali,
Asst. Surveyor of Works (Civil),
Civil Construction Wing,
All India Radio, Kakkad P.O., Kochi – 37.

...Applicant

(By Advocate Mr.Vinod Chandran K)

Versus

1. Union of India represented by its Secretary,
Ministry of Information & Broadcasting,
New Delhi.
2. Prasar Bharathi (Broadcasting Corporation of India)
represented by its Director General,
All India Radio, Parliament Street,
New Delhi – 110 001.
3. The Executive Engineer (Civil),
Office of the Executive Engineer (Civil),
All India Radio, Kakkad P.O., Kochi – 37.
4. The Chief Engineer – 1,
Civil Construction Wing,
All India Radio, 6th Floor, CGO Complex,
Lodhi Road, New Delhi – 3.
5. Mahesh Kumar,
Assistant Engineer (Civil),
Office of the Executive Engineer (Civil),
Civil Construction Wing, All India Radio,
Chennai – 600 015.
6. V.Sreenivasan,
Assistant Engineer (Civil),
Office of the Executive Engineer (Civil),
Civil Construction Wing, All India Radio,
Chennai – 600 015.

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7. S.Sudarshana Kurup,
Assistant Engineer (Civil),
Office of the Assistant Engineer (Civil),
Civil Construction Wing, All India Radio,
Vazhuthacaud, Thiruvananthapuram – 14.
8. C.V.Sonachalam,
Assistant Engineer (Civil),
Civil Construction Wing, All India Radio,
Doordarshan Kendra, Kudappana Kunnu,
Thiruvananthapuram – 43.
9. V.V.S.N.V.Prasad,
Assistant Surveyor of Works (Civil),
Office of the Superintending Engineer (Civil),
Civil Construction Wing, All India Radio,
Chelpauk, Chennai – 600 005.
10. V.S.Ramesh,
Assistant Surveyor of Works (Civil),
Office of the Executive Engineer (Civil),
Civil Construction Wing, All India Radio,
Bangalore. ...Respondents

(By Advocate Ms.Mini R Menon [R1-4])

This application having been heard on 27th April 2007 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicant is an Assistant Surveyor of Works (Civil) working in the Broadcasting Corporation of India, All India Radio at its Civil Construction Wing, Kakkanad, Kochi. The applicant, in his service, in excess of the stipulation in rules has worked in three difficult stations for more than eight years. As the applicant's options for transfer were not being considered favourably, the applicant was constrained to approach this Tribunal four times earlier the last of which was concluded by Annexure A-1 order. Annexure A-1 directed the applicant to give a representation to the 4th respondent for exercising an option for general transfer in the instant year and also directed the 4th respondent to give an opportunity for exercising an option to the applicant. On the basis of the said direction the applicant had

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submitted Annexure A-2 representation and subsequently also exercised his option through Annexure A-3. The submission now made is that without waiting for considering the options along with the consideration of options submitted by the other employees at the time of general transfer, the 4th respondent has misinterpreted Annexure A-1 order and rejected the request of the applicant by Annexure A-4 order and the said order rejecting the options exercised by the applicant by Annexure A-3 has been done in isolation and in flagrant violation of Annexure A-1 order. Annexure A-4 order negatives the opportunity granted by this Tribunal and the applicant challenges the same as illegal and arbitrary along with Annexure A-5 order relieving the applicant immediately on service of the same without permitting him to handover charge or to avail of the benefits incumbent on transfer.

2. Respondents have filed a short statement pointing out the following. The applicant is the senior most under the 3rd respondent in terms of continuous stay of posting. As far as the vacancy position under the 3rd respondent is concerned there are at present nine incumbents against a sanctioned strength of four posts of A.E.(C)/ASW(C). All the incumbents are junior to the applicant in terms of stay. The vacancy at Bangalore has not yet come into effect. As regards the vacancy in Chennai there is excess staff strength compared to sanctioned posts. Respondents 3-10 have either not completed the tenure or are juniors to the applicant and they have undergone several general transfers. The applicant has, therefore, no case and all his contentions have already been considered sympathetically.

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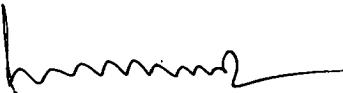
3. We have heard Shri.Vinod Chandran K for the applicant and Smt.Mini R Menon for the respondents. Counsel for the respondents submitted that it is made very clear in the reply statement that there are no vacancies at the choice places which the applicant had opted for and that the continuance of the applicant on one pretext or the other is causing wasteful expenditure to the Department due to the excess staff strength in comparison to the posts sanctioned.

4. This is the 4th round of litigation indulged in by the applicant. Since the issue of the general transfer order in the year 2006, the applicant has been filing O.As one after the other. In the order in O.A.92/07 and O.A.93/07 it was made clear by this Tribunal that no further issue remains to be adjudicated upon and the said O.As were disposed of with a direction to the respondents to provide an opportunity to the applicant to exercise option if such an opportunity is granted to other employees in the office and to consider such options in accordance with the rules. Respondents have now considered the options given by the applicant and rejected the same by the impugned order. It has been explained before us that there are no vacancies in the choice stations given by the applicant and there are excess incumbents against the sanctioned strength in the post of Assistant Surveyor. We do not find any merit in the contention of the counsel for the applicant that the applicant has to be given a further consideration of his option for the current academic year of 2007 as no such promise has been contemplated in our earlier orders. As rightly said by the respondents this option exercised by the applicant does not confer any right to get a posting at the choice station. That transfer is an incident of service is already

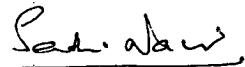
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settled in law and no employee has any right to a posting at his choice. The applicant has already been granted concession of staying on till the end of the academic year. No further consideration is warranted in such cases. Counsel for the applicant also submitted that the applicant is now willing to join at New Delhi. The O.A. is, therefore, dismissed.

(Dated the 27th day of April 2007)


GEORGE PARACKEN
JUDICIAL MEMBER

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SATHI NAIR
VICE CHAIRMAN