

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.286/02

26th

Thursday this the day of June 2003

C O R A M:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

Ilford Joseph,  
Cameraman Grade II,  
Doordarshan Kendram,  
Thiruvananthapuram.

Applicant

(By advocate Mr.P.Santhoshkumar)

Versus

1. Union of India, represented by  
The Secretary,  
Ministry of Information & Broadcasting,  
New Delhi.
2. The Prasar Bharathi  
(Broadcasting Corporation of India),  
New Delhi, represented by  
the Chief Executive Officer.
3. The Director General,  
Prasar Bharathi  
(Broadcasting Corporation of India),  
Doordarshan Kendra, New Delhi.
4. The Director,  
Doordarshan Kendram,  
Thiruvananthapuram.

Respondents

(By advocate Mr.C.B.Sreekumar,ACGSC)

The application having been heard on 26th June 2003,  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant Cameraman Grade II, Doordarshan Kendra,  
Thiruvananthapuram has filed this application seeking to set  
aside Annexure A1 order dated 8.4.02 to the extent his transfer  
from Thiruvananthapuram to Patna. It is alleged in the  
application that the third respondent does not have the  
jurisdiction to transfer the applicant as the applicant has not

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given his option for absorption in the corporation, that the transfer is not made for take guard of administrative exigency and is malafide.

2. The respondent filed a detailed reply statement.

3. Heard the learned counsel on either side. The learned counsel of the applicant relying on Annexure A2 judgement of the Hon'ble High Court of Kerala in O.P. No.17112/2001 - K argued that the third respondent is not competent to issue the transfer order. I find no force in that argument. What the Hon'ble High Court of Kerala stated in the order in O.P.No.17112/2001 was only as follows:

" It is submitted by the Standing counsel for the respondents that the petitioner does not come within the employees transferred to Prasar Bharati in terms of Section 11(1) of Prasar Bharati Broadcasting Corporation of India Act,1990. Therefore, he continues to be a Govt. of India employee. He cannot therefore challenge the transfer order before this court under Article 226 of the Constitution of India, because of the exclusion of jurisdiction in terms of Section 14 of the Administrative Tribunals Act, 1985. But, that shall not stand in the way of exercising judicial review of an order passed by the Prasar Bharati. The impugned orders of transfer Exts.P9 and P10 disclose that those orders have been issued by the Prasar Bharati. If the petitioner is not the employee of Prasar Bharati as contended by the Standing Counsel, the said Corporation cannot transfer the petitioner from Kochi to Thrissur. That is sufficient reason to quash Exts.P9 and P10. Accordingly, Exts P9 and P10 are quashed.

The original petition is allowed as above.

4. In this case there is no case that the applicant is not an employee of the corporation. The applicant is admittedly working under the corporation and so long as he is working for the corporation, the corporation is to utilise his service whereever

it finds him needed unless he holds a non-transferable post. Therefore the contention of the applicant that the third respondent has no jurisdiction to issue the impugned order is not sustainable so long as his services are at the disposal of the corporation. However counsel on either sides agree that the application might be disposed of permitting the applicant to make a representation for retention in Thiruvananthapuram or for posting in a choice station within a week and directing the third respondent to dispose of the representation within a reasonable time keeping the relief of the applicant from Thriuvananthapuram pending till the representation is disposed of giving him a reply.

5. In the light of what is stated above, as agreed to by the learned counsel on either side the application is disposed of permitting the applicant to make a representation to the third respondent within a week from the date of receipt of a copy of this order seeking retention at Thiruvananthapuram or posting to any choice station and directing the third respondent that if such a representation is received, it shall be considered and disposed of within a reasonable time and that until an order of the third respondent on the representation of the applicant is served on him the applicant shall not be relieved from the present place of posting. No costs.

(Dated the 26th day of June, 2003)

  
A.V. HARIDASAN  
VICE CHAIRMAN