

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 308/2010

Dated this the 24th day of June, 2011

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HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

D.Rajan, Production Assistant,
Doordarshan Kendra, Thiruvananthapuram..

.Applicant

By Advocate Mr. Vishnu.S Chempazhanthiyil

Vs

- 1 The Director, Doordarshan Kendra, Thiruvananthapuram
- 2 The Director General, Doordarshan
Prasar bharathi Corporation, New Delhi.
- 3 Deputy Director (Admn), Directorate General
Doordarshan, Doordarshan Bhavan, New Delhi.
- 4 T.N.Lathamony, Production Assistant,
Doordarshan Kendra, Thiruvananthapuram.

Respondents

By Advocate Mr.N.N.Sugunapalan (R1-3)
Mr. Grashious Kurikose (R-4)

The Application having been heard on 16.6.2011, the Tribunal delivered the following

ORDER

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a Production Assistant, Doordarshan Kendra, Thiruvananthapuram, is challenging his transfer, to Doordarshan Kendra Calicut as arbitrary, discriminatory and violative of the transfer norms.

- 2 The brief facts of the case as stated by the applicant are that he is a regularly appointed Production Assistant in the year 1985 and working at

74

Doordarshan Kendra (DDK for short), at Thiruvananthapuram. It is stated that the 4th respondent, a Production Assistant, is senior to the applicant and she was recruited in the year 1984. According to the applicant as per the Station seniority the 4th respondent was transferred by order dated 22.2.06 from DDK Thiruvananthapuram to DDK Calicut but the same was not implemented till 2010. In the month of February 2010 the 4th respondent was relieved from DDK Thiruvananthapuram but she did not join at DDK Calicut. Thereafter order dated 6.4.2010 (Annex.A1) was issued by the 3rd respondent cancelling the earlier transfer order dated 22.2.2006 and the applicant was transferred to DDK Calicut in place of the 4th respondent. It is alleged by the applicant that Annex.A1 was issued to enable the 4th respondent to continue at DDK Thiruvananthapuram on extraneous consideration. He submitted a representation to the authorities concerned narrating the fact that his 82 years old widowed mother is suffering from cardiac disorder, she requires constant attention and he is suffering from rheumatic disorders with severe lower back pain. This representation did not evoke any favourable response. He submitted that his continuance at Thiruvananthapuram is essential to lead a normal family life and to look after his ailing mother. Therefore, he has sought a direction to set aside the impugned order and declare that the applicant is entitled to continue at Thiruvananthapuram.

3 The respondents No.1-3 and R-4 have filed separate reply statement. The official respondents submitted that the transfer order in respect of the 4th respondent was cancelled on the basis of her representation that her mother is suffering from chronic heart disease. The matter was examined by the office of the 2nd respondent. Her request was acceded on medical/compelling grounds and having regard to the recommendations of the Women Empowerment Committee of Lok Sabha to sympathetically view transfer matters of women. It is further submitted that the 2nd seniormost Production Assistant, M.N.Unni, is on the verge of

11

retirement on 31.7.2011. As per the transfer policy of the respondents department, those with less than 3 years service in a station are generally not transferred unless in the interest of service. It is submitted that the transfer order pertaining to the 4th respondent was cancelled and thereby the impugned order Annx.A1 was issued transferring the applicant to DDK Calicut. They have referred to Apex Court rulings to the effect that transfer is an incidence of service and scope for judicial review is limited. It is further submitted that the transfer order was issued in accordance with rules and the transfer policy of the department.

4 Heard learned counsel for the parties and perused the records.

5 The main contention of the applicant is that the impugned transfer order is arbitrary and in violation of the transfer norms. It is seen that the applicant had uninterrupted stay in his choice/native place, i.e Trivandrum from 1985 onwards. As per the averments of the applicant since their appointment as Production Assistants both the applicant and respondent No.4 are working at DDK Thiruvananthapuram i.e for more than 25 years. Respondent No.4 was transferred to Calicut in 2006, but the order was kept pending due to administrative reasons. She was relieved on 27.1.2010 and directed to report to DDK Calicut. She submitted a representation to cancel her transfer order, on the ground of the medical attention needed by her mother who is a heart patient. The representation of the 4th respondent was examined by the 2nd respondent who is satisfied with the compelling reasons given by respondent No.4 and having regard to the recommendation of the Women Empowerment Committee of Lok Sabha [Annx.R1(a)] a sympathetic view was taken in favour of the 4th respondent. Her period of absence from 28.1.10 to 6.4.2010 was regularised by grant of eligible leave (Annx.R1(b)). Thus, the official respondents cannot be faulted for acting on extreaneous considerations. They have cancelled the transfer order of the 4th respondents and issued the impugned transfer order transferring the applicant to Calicut as there is no Production Assistant at

74

DDK Calicut at present. They also cited in an identical case OA 449/2010 D.Sundarajan Vs. The Director General Doordharshan [Annx.R1(c)], the Madras Bench of the Tribunal directed the respondents to ascertain the feasibility of accommodating the applicant at Pndicherry in the next available vacancy and if even after a reasonable time, no such vacancy available at Pondicherry, the respondents may go ahead with the transfer of the applicant to any other nearest place within the South Zone in fulfillment of the commitment made vide OM dated 9/15.4.2009. In such circumstances the transfer order cannot be said to be in violation of the transfer norms. Therefore, I do not find any illegality or arbitrariness in the action of the respondents.

6 It is well settled that the Courts or Tribunal are not appellate forum to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to places of their choice. Transfer of an employee is an incident of service. An employee has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one particular place or other. An employee is therefore, liable to be transferred to meet the administrative exigencies and to prevent any vested interest being developed, on account of longer stay in a particular station.. Ordinarily, the Courts/Tribunals would not interfere in the transfer of an employee unless there is any malafide intention alleged and proved against the departmental authorities. In a catena of judgments the Apex Court has categorically stated that it is the prerogative of the Government/department to decide who is to be posted to a particular place in the overall interest of the organisation. The employee has no right to choose a particular post or place for his posting. Therefore, I do not find any violation of transfer policy norms in the impugned transfer order.

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7 Keeping in mind the dictum laid down by the Apex Court in transfer matter and in view of the foregoing I do not find any illegality in the transfer order at Annexure A-1. None of the grounds raised is tenable. Hence the applicant has to report for duty at DDK Calicut. Thereafter, the respondents are directed to consider his representation, take an appropriate decision and intimate the same to the applicant. The interim order is vacated. The O.A in effect is dismissed. No costs.

Dated 24th June, 2011


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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