

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.375/06

Thursday this the 1st day of June 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

M.Jahir Huzane,
S/o.late M.Mohammed Sali,
Assistant Surveyor of Works (Civil),
Civil Construction Wing, All India Radio,
Kakkanad P.O., Kochi – 30.

...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)
All India Radio, Parliament Street,
New Delhi – 110 001.
3. The Executive Engineer (Civil),
Office of the Executive Engineer (Civil),
All India Radio, Kakkanad P.O., Kochi – 30.
4. The Chief Engineer – 1,
Civil Construction Wing, All India Radio,
6th Floor, CGO Complex, Lodhi Road,
New Delhi – 3.

...Respondents

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

This application having been heard on 1st June 2006 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 Broad Casting Corporation of India, All India Radio at its Civil Construction Wing, Kakkanad, Kochi. The applicant in his service in accordance with

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the stipulation in rules has worked in three difficult stations for more than eight years. The applicant was asked option for transfer and exercised the same and had chosen Kochi, Trivandrum and Chennai/Madurai, in that order. However, the applicant is now being transferred to New Delhi and others who have not even worked in difficult stations accommodated in convenient places. The applicant is further prejudiced by the fact that his mother is old and ailing and his son is in the 10th standard and hence is unable to displace his family. The applicant challenges his transfer as arbitrary and illegal since the option exercised by him has not been considered and he has been singled out for transfer to a far off station as he had complained against his superior.

2. Reply statement has been filed by the respondents stating that the applicant was relieved on 29.5.2006 by Annexure R-3 order and under these circumstances he has to join at New Delhi, the place of posting. They also submitted that as per the transfer policy at Annexure R-4, employees in the organisation are liable for transfer after the normal tenure of 3-4 years and unless there are malafides, the interference of the Court is not warranted. They also submitted that some of the employees who have been transferred along with the applicant had joined and therefore the interim order may be vacated.


3. The applicant is on leave till 2.6.2006 and is to report for duty on 5.6.2006. It is also submitted that in place of transfer policy of 1981, a new transfer policy was put in place by the Prasar Bharathi, an unauthenticated copy of which was produced before us, according to which transfers are to be effected only in the circumstances when there



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are serious complaints or in the interest of the organisation or as a result of promotion and submitted that none of these conditions are applicable in the case of the applicant. It is also pointed out that the respondents have called for options from the employees as part of the annual exercise as early as in June 2006. The applicant had clearly exercised option and had requested for either Kochi, Trivandrum or Chennai/Madurai. It is the contention of the applicant that unfortunately none of the options given by him is considered and he has been moved to a far away place. He immediately gave a representation (Annexure A-2) to the 4th respondent. The respondents have neither considered his option nor the representation.

4. We have heard both the sides. We are very much conscious of the judgment of the Apex Court with regard to transfers that they are not to be interfered with by Courts and Tribunals unless there is a proven violation of Rules etc. In this case there is a transfer policy in place, which, as seen from the document placed before us, does not generally encourage transfers except in the interest of the organisation or when there are serious complaints against the employee. The Department had invited options from the employees and they had given certain places of their choice. In that event, certainly it was obligatory on the Department to consider the options given by the employee and if it was not possible to give them their choice stations, they could have been considered for posting to nearby stations. We do not find any satisfactory reasons for the transfer stated in the reply statement filed by the respondents. Moreover, the applicant has submitted a representation detailing the above facts and the Department could have considered this rather than insisting on his relief even on the face of an interim order of this Tribunal. Since



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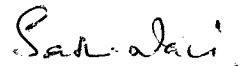
our order dated 29.5.2006 is very clear that the transfer order regarding the applicant is stayed till 1.6.2006 it is deemed that the applicant has been continuing since 29.5.2006. We are, therefore, of the view that interest of justice will be met, if a direction is given to the respondents to consider and dispose of the applicant's representation.

5. We, accordingly, direct the respondents to consider and dispose of the representation of the applicant at Annexure A-2 and pass orders within a period of three weeks from the date of receipt of a copy of this order. The interim order in respect of the applicant shall continue till the disposal of the representation. It is also clarified that the interim order dated 29.5.2006 is applicable to the applicants in the O.As only.

(Dated the 1st date of June, 2006)



K.B.S.RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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