

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.386 /2005

This the 13 th day of December, 2005

HON'BLE SHRI S.P. ARYA, MEMBER (A)

Swatantra Singh aged about 35 years son of Sri Radhey Lal R/o C/o Gauri Shanker Gupta, H.No. 3/20/120 Naharbagh, District- Faizabad.

..Applicant

By Advocate: Sri Sanjay Srivastava

Versus

1. Union of India through its Secretary, Ministry of Information and Broadcasting, Shastri Bhawan, New Dehi.
2. Prasar Bharti through the Chief Executive Officer, P.T.I. Building, Sansad Marg, New Delhi.
3. Director General Doordarsan, Mandi House, Copernicus Marg, New Delhi.

Respondent

By Advocate: Sri Vishal Chowdhary for Km. Asha Chowdhary.

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

The applicant after serving at difficult stations was posted at Faizabad. By order dated 24.6.2005, he was transferred to Doordarshan Kendra Muzaffarpur. He filed an Original Application against his transfer order and the O.A. was disposed of with direction to the respondent Director General, Doordarshan to decide the representation of the applicant taking into the observation and ground stated in the said representation.

2. The representation of the applicant was rejected by order dated 1.8.2005 (Annexure No.2). This order along with earlier order of transfer has been assailed by this Original Application on the grounds that the applicant has not completed his tenure at Faizabad. His elder son has

to take up the Intermediate Examination of U.P. Board, the representation has been disposed of in a whimsical manner, the action of the respondents is contrary to the provisions of transfer policy and the transfer is punitive in nature.

3. I have heard the learned counsel for the parties and perused the pleadings on record.

4. The respondents in their counter reply have stated that the family of the applicant is living at Kanpur and has never lived with the applicant either at Faizabad or at other previous stations. The behavior and working of the applicant was not according to satisfaction of the controlling officer. The supplementary affidavit filed by the Station Engineer states that applicant has never opposed his posting at Faizabad and competent authority has transferred the applicant along with other senior officers as a routine to meet out the requirements for smooth functioning. It specifically states "At present it is not possible to transfer the applicant at Allahabad. However, after joining at Muzaffarpur, he can request for transfer according to his choice and the same will be considered on merit."

5. The applicant on the other hand stated in his R.A. that the order of transfer has been passed on the basis of alleged misconduct against which no opportunity has been provided to the applicant.

6. On perusal of the records, it is clear that the order of transfer does not speak either public interest or the exigency of service or on administrative ground. The order dated 1.8.2005 disposing of the representation of the applicant discloses that the order of 24.6.2005 has been effected on administrative grounds and not on the basis of tenure. It also speaks of off and on absence from office and remaining out of station without information and also that general behavior of the applicant has reportedly created an atmosphere which is administratively not desirable.

7. It appears that the competent authority while passing the transfer order has had in the back of the mind the off and on absence of the applicant. Applicant undisputedly has not completed the tenure. It is not disputed that Lucknow and Allahabad have got the vacancy. It is the Station Engineer in the office of Doordarshan ,Faizabad who files Supplementary Counter Reply and states with authority that at present it is not possible to transfer the applicant at Allahabad. It would be clear that it was for the respondents to say that applicant cannot be accommodated at Allahabad unless he joins at Muzaffarpur. However from the records, it is clear that the applicant has been relieved and new incumbent has taken over the charge. In this view of the matter, there arises no question of cancellation of the transfer order of 24.6.2005. In the peculiar facts and circumstances that the applicant was not allowed to complete the tenure prescribed by the transfer guidelines and the transfer having been made keeping in view the absence of the applicant and dis-satisfaction of the controlling officer, it would be just and proper to direct respondent NO. 3 to consider the case of the applicant for accommodating him at Allahabad or Lucknow where the vacancies still exist expeditiously preferably within a month and pass appropriate orders. Ordered accordingly.

8. With the above directions, O.A is disposed of without any order as to costs.

24/3/05  
(S.P. Arya)  
Member (A)

HLS/-