

Central Administrative Tribunal
Lucknow Bench Lucknow

Original Application No.138/2008

This, the 15th day of September 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)
HON'BLE DR. A.K. MISHRA, MEMBER (A)

Bajrangi Tiwari, aged about 58 years S/o Late Shri Ram Tiwari, Programme Executive, Prasar Bharti Broadcasting Corporation of India, Akashvani, Lucknow.

...Applicant.

By Advocate:- Shri S.N. Pandey.

Versus.

1. Union of India & Ors. Director General, Prasar Bharti Akashvani Bhawan, Sansad Marg, New Delhi.
2. Director, All India Radio, Prasar Bharti, Akashvani, 18 Vidhan Sabha Marg, Lucknow.

... Respondents.

By Advocate:- None.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant filed this OA with a prayer to set aside the impugned order Dt. 30.1.2008 (Ann.-1) compelling the applicant to give an application for leave, which is against the orders of this Tribunal and also to issue direction to the respondents for payment of his salary w.e.f. 26.10.2007 to 29.10.2007 alongwith interest @ 18 % thereon.

2. Inspite of several adjournments, the respondents have not filed Counter affidavit hence, right to file Counter affidavit is forfeited.
3. Heard the applicant counsel.

4. It is the case of the applicant that while working as Programme Executive, Prasar Bharti Broadcasting Cooperation of India, Akashvani, Lucknow, he was transferred from Lucknow to Faizabad. Upon which, he filed O.A. No.217/2007, which was allowed on 17.10.2007 quashing the impugned transfer order. It is also the case of the applicant that thereafter, he was allowed to join duty on 30.10.2007 on his application. By way of the impugned order Ann.-1 dt.30.01.2008, the respondent authorities are insisting him to give an application for leave from 26.10.2007 to 29.10.2007 and against the same he has filed this OA. On filing his earlier O.A.No.217/2007, the Tribunal also granted status-quo in respect of his transfer on 01.06.2007 and as such there was no occasion from his side for giving any leave application from 26.5.2007 to 29.10.2007.

5. On perusal of earlier judgment in O.A.No.217/2007, it is clear that after issuance of the transfer order Dt. 17.5.2007, which was the subject matter in the said OA, the respondents have pleaded that the applicant was relieved on 25.5.2007 itself. As per the version of the applicant, this Tribunal passed status-quo order on 01.06.2007. Further, the applicant did not challenged reliving orders and as such there was no finding on such issue by the tribunal in earlier OA. In such circumstances, it is not open to the applicant to say that he had been continuing there on 01.06.2007, even after transfer. The transfer of the applicant under impugned transfer order Dt. 17.5.2007 has been quashed by this Tribunal on different grounds.

6. The applicant himself pleaded in this OA stating that he submitted his joining report on 30.10.2007, upon which the respondents allowed him to join. It is not the case of the applicant that he

was continuing in the same place of Lucknow either on 01.06.2007 on the date of grant of status-quo or till the disposal of OA on 17.10.2007. Added to it, applicant himself submitted that he was allowed to join on 30.10.2007. In such circumstances, it is not open to the applicant to say that he had been continuing in the same post at Lucknow during the period from 26.5.2007 to 29.10.2007, for which the respondents sought leave application from the applicant and as such, there are no merits in the claim of the applicant in questioning the order of the respondents covered under (Ann.-A-1) Dt.30.01.2008 asking the applicant to submit leave application for the absent period from 26.05.2007 to 29.10.2007.

In the result, OA is dismissed. No costs.


(DR. A.K. MISHRA)
MEMBER (A)


(M. KANTHAIYAH)
MEMBER (J)

15-09-08

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