

AS
CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

Original Application No. 532 of 1992

B.P. Sinha Applicant.

V E R S U S

Union of India Respondents.
and Others

Hon'ble Mr. S.N. Prasad, J.M.

(By Hon'ble Mr. S.N. Prasad, Member 'J')

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the impugned order dated 13.10.92 (Annexure-A-9) whereby the applicant has been transferred from Lucknow to Ranchi.

2. Briefly stated the facts of this case, inter-alia, are that the applicant was appointed as Deputy Director, Song and Drama Division, Ministry of Information and Broadcasting, Government of India through the U.P.S.C. w.s.f. 8.4.1982. Prior to his appointment as Deputy Director in the Song and Drama Division, the applicant had been employed with Doordarshan Kendra, New Delhi and Lucknow from 1967 to 1982, barring the years 1976 and 1978 when was employed with Sahitya Kala Parishad, New Delhi and National School of Drama, New Delhi. That while working with Doordarshan, New Delhi, the applicant was the elected President of All India Doordarshan Programme Staff Union and a Writ was filed by the Union in the High Court of Delhi for issue of a

writ of MANDAMUS to the Union of India to implement its own decision. The then Minister of Information and Broadcasting was arrayed as opposite party in the that Writ Petition and due to that Writ Petition, the bureaucracy was highly annoyed and humiliation and victimization of the applicant started which is continuing till today, even after shifting of the applicant from Doordarshan to the Song and Drama Division, both being in the same Ministry. That the wife of the applicant is employed as Assistant Station Director, Central Production Centre, Doordarshan, New Delhi under the same Ministry. However, on appointment of the applicant as Deputy Director, Song and Drama Division, he was deliberately not posted to New Delhi and was posted to Song and Drama Division, Ranchi Region w.e.f. 8.4.1982. It has further been stated that while posted at Ranchi, the applicant had taken strong administrative action to improve the level of administration, and due to this the applicant was "gheraoed" in the office and assaulted by a strong mob of about 350 persons and that "gherao" was engineered by the subordinate staff of the office under the leadership of one Sri A.K. Chatterjee, Technical Assistant. The matter was reported to the respondents, but no action, whatsoever, was taken against these persons and instead, the applicant was transferred to Chandigarh on 17.2.1984. The subordinate staff working at Ranchi during the year 1983-84 is still the same and due to no action having been taken against any one of them, they have become more bold and as such there is danger to the life of the applicant.

It has further been stated that the impugned transfer order is colourable exercise of power and has been passed by the respondent^{no.} 3 due to personal grudge and annoyance and as such the order being arbitrary, malafide and violative of Articles 14 and 16 of the constitution of India, should be quashed.

3. In the counter-reply the respondents have, inter-alia, contended that the impugned transfer order is valid, legal and has been passed properly without any personal grudge, bias and malice and as such the application of the applicant is liable to be dismissed.

4. The applicant has also filed rejoinder affidavit wherein ~~he~~ has reiterated almost all those very points and grounds ~~has~~ already mentioned in his main application.

5. I have heard the learned counsel for the parties and have gone through the records of this case.

6. Annexure S.1 is the copy of the representation ~~on~~ dated 20.11.92 which is enclosure to the Supplementary Affidavit of the applicant. Dated 14.12.92.

7. The learned counsel for the applicant while drawing my attention to the contents of the application, rejoinder affidavit and supplementary affidavit and Annexures annexed thereto has stressed that the applicant has sent his above representation to the Joint Secretary (FILMS) Government of India, Ministry of Information and Broad Casting, New Delhi (Who is Respondent No. 2 in this case); and has drawn my

attention particularly to para 4.22 of the application wherein it has been stated by the applicant that he is ready and willing to proceed on transfer to any place except Ranchi where he had been assaulted and humiliated, as mentioned above and has urged that the decision of the above representation of the applicant sympathetically by the respondent no. 2 at an early date may go a long way in substantially redressing the grievance of the applicant.

8. The above representation dated 20.11.92 has been addressed to the Joint Secretary (FILMS) Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi; and a perusal of Annexure A-6 to the application which is copy of Judgment and order dated 15.11.90 passed in O.A.358- of 1990(L) "B.P. Sinha(Applicant) Vs. Union of India and Others(Respondents) shows that the applicant had filed that O.A. No. 358 of 1990 (L) for a direction to the respondents to evolve a policy for taking disciplinary action on reports of Field Officers as and when made and a direction not to act on baseless complaints under Political interference and other directions to evolve policies regarding administration in the Song and Drama Division, Ministry of Information and Broadcasting including allotment of programmes.

9. The learned counsel for the respondents has received copy of the Supplementary Affidavit dated 14.12.1992 whereby the above representation of the applicant has been enclosed as (Annex. S-1).

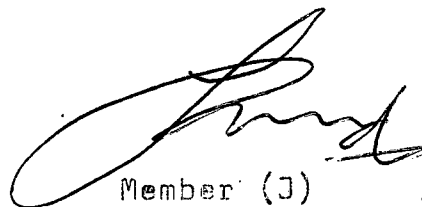
10. This is note-worthy that the perusal of para 4.04 of the application shows that during the period 1982-84 while the applicant was posted at Ranchi the subordinate staff of the office under the leadership of Sri A.K. Chatterjee, Technical Assistant, on strong administrative action having been taken, became furious and "gheraaoed" and assaulted the applicant by a mob of about 350 persons.

11. No doubt it has been enunciated by the Hon'ble Supreme Court in the case of Union of India Vs. H.N. Kirtania, A.I.R. 1989, S.C. Page 447 the transfer is an incident of Service and the employee/officer who is holding transferable post is liable to be transferred anywhere and has no right or claim for being posted at a particular place or Station, but at the same time if there is danger to the life of the employee/officer and if that danger to the life of the employee/officer concerned can be easily averted without detriment to the Government/Public work, then there should be no hesitation on the part of the employer to consider this aspect as this may go a long way in keeping the machinery of the Govt./Public oiled and running sweetly bringing about harmony and amity between the employer and employees.

12. As pointed out above, the applicant has inter-alia, stated in para 4.22 of his application, that he is ready and willing to proceed on transfer to any place other than that place i.e. Ranchi where he ~~was~~ "gheraaoed" and assaulted.

13. Having considered the above viewpoints and the aspects of the matter, besides other points, I find it expedient that the ends of Justice would be met if the respondent no.2 is directed to decide the above representation of the applicant dated 20.11.1992 (Annex. S-1[~] to the supplementary affidavit of the applicant) sympathetically by reasoned and speaking order as early as possible latest within a period of one month from the date of the receipt of the copy of this Judgment, and to transfer the applicant to any place other than Ranchi if possible, and till the decision of the above representation the interim order dated 19.10.1992 passed by this Tribunal in this case shall hold good; and I Order accordingly.

14. The application of the applicant is disposed of as above. No order as to costs.


Member (J) 16.12.92

Lucknow, Dated 16 December, 1992

(M.M.)