

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 679/87

199

T.A. NO: ----

DATE OF DECISION

10-1-92

Y.K.Mehta

Petitioner

Mr.S.R.Atre(Amicus curiae)

Advocate for the Petitioners

Versus

Union of India and others.

Respondent

Mr.V.S.Masurkar

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

mbm*

MD

U.C.
(U.C.SRIVASTAVA)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.679/87

Y.K.Mehta,
Cameraman Grade - I,
Doordarshan Kendra,
Worli,
Bombay - 400 025.

.. Applicant

vs.

1. Union of India
through
The Secretary,
Ministry of Information and
Broadcasting,
Shastri Bhavan,
New Delhi - 110 001.
 2. The Director General,
Doordarshan,
Mandi House,
New Delhi - 110 001.
 3. The Additional Director General,
Doordarshan,
Mandi House,
New Delhi - 110 001.
 4. The Deputy Director General,
Doordarshan, Mandi House,
New Delhi - 110 001.
 5. Shri Harjit Singh,
Ex-Director(Personnel),
Doordarshan,
Mandi House,
New Delhi - 110 001.
 6. The Engineer-in-Chief,
Doordarshan,
Mandi House,
New Delhi.
 7. The Director,
Doordarshan Kendra, Worli,
Bombay - 400 025.
 8. The Director General,
All India Radio,
Akashwani Bhawan,
New Delhi - 110 001.
- .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.S.R.Atre
Advocate for the
Applicant
(amicus curiae)
2. Mr.V.S.Masurkar
Counsel for the
Respondents.

JUDGMENT:

Date:

(Per U.C.Srivastava,Vice-Chairman)

By means of this application the applicant has challenged his transfer order transferring him from Delhi to Bombay which according to him is against the terms of the contract, against the guidelines declared by the Govt. of India initially. Applicant claimed number of reliefs in the application but later on confined to this particular relief. So far as the other reliefs are concerned he has filed a separate application which has also been heard.

2. The applicant after taking Diploma in Cinema from Film Institute of India, Pune, joined Films Division, Govt. of India, and worked there till November, 1970. Later on he was appointed as Cameraman at Doordarshan Kendra, New Delhi from 21st November, 1970. The applicant's case is that he was transferred to Upgrah () Doordarshan Kendra, Delhi without his consent in August, 1973. He was promoted as Cameraman Grade I on 26th June, 1978 at Upgrah Door Darshan Kendra, New Delhi and transferred to Upgrah Door Darshan Kendra, Hyderabad on 5-5-80. He was transferred to Bombay on 7-1-1987 and promoted as Video Executive on 14th February, 1989. The applicant's case is that his service was on contractual basis and he was appointed by the Director General at Delhi as such he could not have been transferred outside Delhi. The Ministry of Information & Broadcasting formulated a comprehensive transfer policy on 17-9-1982 and the applicant states that he himself opted on 1-10-89 for his transfer to Delhi where his wife is in service. The applicant's second option was not

accepted on the ground that there was no ground for his transfer to Bombay. The applicant, it appears that, was transferred to Hyderabad. After his promotion the applicant again prayed for his transfer to Delhi but no heed to the same was paid. The applicant who was transferred to Hyderabad filed a writ petition in the AP High Court. That writ petition was dismissed on 2-11-82. His request for transfer to Bombay was again considered but the same was not accepted. At last his request for transfer to Bombay was reconsidered and orders were issued in 1987. The applicant's grievance in this application is that although the applicant has denied that his earlier transfer was under his own request his grievance in this application is that his services are on contractual basis till ~~he~~^{he} became Govt. service and under the terms of contract he could not have been transferred. This plea has been raised by him despite the fact that he has earlier been transferred to Hyderabad and he made his request also earlier for his transfer to Bombay. In this connection the applicant has placed reliance on the judgment of Principal Bench in S.K. Mathur v. Union of India & Others decided on 7-9-87 in which case the application ~~of~~ was allowed and his transfer to Jullundar was cancelled. From the judgment it is very clear that the said employ^{ee} was appointed in the year 1967 while the condition in the terms of the contract that services are transferable and can be transferred anywhere in India were introduced in the month of March, 1970. The applicant in the present case was appointed in the month of November, 1970 i.e. after the said condition came into existence.

Consequently the applicant cannot derive any benefit from the case of S.K.Mathur who could succeed only on the ground that his contract does not contain any such condition.

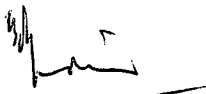
3. The applicant then contended that the applicant's wife is in Govt. Service in Delhi and in view of the guidelines laid down the applicant should be transferred back to Delhi for which he made ^{number of} representations and by an order when the respondents were directed by the Tribunal to consider the same the reply which has been received, it appears that, they are scared from the presence of the applicant. This according to the applicant indicate that purposely and deliberately by making such allegations against the applicant they do not want the applicant who has earned a good certificate of being the best talented Cameraman by the AP High Court, to join at Delhi and surpass many similarly placed persons. Obviously the ground on which he is not being transferred to Delhi which has not been so disclosed appears to be very unreasonable and has rather no ground at all and smells something foul in it. Undoubtedly the guidelines which have been laid down are not mandatory yet the guidelines are to be given effect to as far as possible. There appears to be no reason, if there is no other legal, insurmountable difficulty, why the applicant's request for the same cannot be considered.


4. The other plea which has been raised by the applicant is that he has been victimised or ^{why} he has ^{not} gone on transfer to Delhi is as a result of mala fide the history of which has been traced ^{but} has not been established

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as the authority who is to transfer is not the same against whom allegations have been made but in view of the fact, ~~wh~~ that has been stated above, obviously the respondents are directed now to reconsider the prayer of the applicant in view of the fact that his wife is serving at Delhi and he has been out of Delhi for the last three years. His prayer is to be considered in its true perspective and not in any irrelevant ground like his presence may not be conducive in the interest of administration or likewise.

5. If the applicant prefers a representation the respondents will dispose it of within a period of one month taking into consideration the guidelines and observations made in this judgment. There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD