

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 831 OF 2005[Patna, this Wednesday, the 28th Day of December, 2005].C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN

Mahesh Lepcha, son of Late Narayan Puri, resident of mohalla – Station Road,
Fatuha, P.S.: Fatuha, Distt.: - Patna.APPLICANT.
By Advocate :- Shri S.K.Bariar.

Vs.

1. The Union of India through Secretary, Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi.
2. Chief Executive Officer, Prasar Bharti, Akashwani Bhavan, New Delhi.
3. Director General, Doordarshan, Mandi House, New Delhi.
4. Chief Engineer, East Zone, AIR&TV, 4th Floor, Akashwani Bhavan, Eden Garden, Kolkata.
5. Station Director, DDK, Patna.RESPONDENTS.
By Advocate :- Shri Pradeep Nr. Kumar, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- The applicant being a Diploma Engineer and Post Graduate in Electronics Science has been working as Sr. Engineering Assistant at DDK, Patna who, with the permission of the authorities, had been undertaking course for M.Sc. [Engineering] in the Bihar College of Engineering, Patna [now, N.I.T.]. While doing the course he was transferred from this station to Saharsa DDK and he came up before this Tribunal against



that transfer in OA 1053 of 2003 which was disposed of by order dated 15.02.2005. This Tribunal noting the relevant facts as also the fact that the applicant was allowed by the authorities to undergo the aforesaid course, held that the applicant should not have been made to suffer by taking resort to the condition as incorporated in the order that the permission to take up higher course would not be valid in case of transfer. This Tribunal held that once the department gave permission to its employee to undergo higher studies, then the authorities concerned should allow such an employee to complete the course within the period prescribed for completing that course and that he should not be discriminated by allowing some others to remain at their respective places of posting for prosecuting higher studies as was noticed by this Tribunal from the submissions of the respondents themselves.

2. This Tribunal was told, while hearing that application, by the learned counsel for the applicant that the period of the course was going to expire by the end of the year. This Tribunal, therefore, allowed the application directing that operation of the transfer order would remain inoperative till the completion of the course by the applicant by the end of the year [2005], without quashing the transfer order itself.

The learned Addl. Standing Counsel points out this particular order submitting that the transfer was stayed till the end of this year, and now the applicant has been issued relieving order w.e.f. 31.12.2005.

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3. Learned counsel for the applicant submits that the course with written examination has indeed completed in this month itself but to succeed in the course the applicant has to undergo project/dissertation work of six months which would be starting from the month of January, 2006, which being a project work, the applicant would have to do practical work in the National Institute of Technology [Bihar College of Engineering, Patna] under guidance of Professors of that Institute. Learned counsel submits that as per the provisions of NIT, Patna the degree of M.Sc. [Engg.] would not be awarded unless he submits his project work which will have 20 credit points out of 65 credit points and then alone he would be entitled for award of the degree. Learned counsel submits that if he is disturbed from Patna at this stage, it will be impossible for the applicant to complete the project work which is part of the course and his entire labour and expenditure would be wasted. Learned counsel submits that the project work will be of six months duration and would be completed, in any case, by July, 2006.

The learned counsel also submits, as also mentioned in the application, that Navin Kumar and Shatrughan Rai, on similar posts at Patna, who also were allowed to undergo course, had joined the course alongwith the applicant and they also are to undergo the project/dissertation work. It is submitted that out of them Navin Kumar has not been touched for transfer but Shatrughan Rai has been transferred who has come up before this Tribunal in OA in which the order of his transfer was stayed by way of interim order.

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4. The learned Addl. Standing Counsel for the respondents also submitted that even if the applicant is relieved and joined at Saharsa as per the transfer order, it would hardly effect his project work.

5. Learned counsel for the applicant, on this, submits that the project work is almost a day-to-day affair and he will have to be engaged in practical works as and when so guided by the concerned Professors of the Institute, hence if he goes to a distant place it would simply not be possible for him to complete the Project work.

6. Admittedly, the applicant was permitted to undergo the course. This Tribunal, in the previous OA had ordered his stay till the end of this year only in view of the information given that the course would be completed by the end of this year. But the import of the order was that the applicant should be allowed to stay at Patna till the completion of the course.

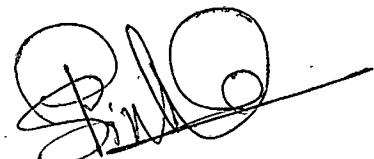
7. However, it also appears that through Annexure-A/10 the applicant on receiving the relieving order has filed a representation dated 12.12.2005 to allow him to stay at Patna till completion of the project/dissertation work also stating therein, as already stated, that the project work would be completed within six months, which was likely to commence from the month of January, 2006. This representation is addressed to the Director General, Doordarshan, Mandi House, Copernicus Marg, New Delhi. Learned counsel submits that a decision on this representation has not been

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conveyed, hence the same is pending.

8. Since a representation has been filed, presently this Tribunal is not giving any direction or passing a final order on merits of the application. The points as urged by the learned counsels for both the sides have been noted in the order. The respondent no. 3 [Director General, Doordarshan, Mandi House, Copernicus Marg, New Delhi] is directed to take a decision on the representation within a month of receipt of a copy of this order, preferably by a speaking order. The applicant is directed to provide to the respondent no.3 a copy of this order along with a copy of the OA with annexures within a fortnight of receipt of a certified copy of this order which shall be obtained by the applicant at the earliest. Till the decision is communicated to the applicant, the effect of order at Annexure-A/8, dated 06.12.2005 will remain in abeyance.

9. With the aforesaid direction, this OA stands disposed of.



[P. K. Sinha]/VC

skj.