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OA 639 of 2005

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 639 OF 2005

with

M.A.NO.: 11 OF 2006

[Patna, this Tuesday, the 20th Day of February, 2007]

C O R A M

HON'BLE MS. SADHANA SRIVASTAVA, MEMBER [JUDL.]

HON'BLE MR. AMIT KUSHARI, MEMBER [ADMN.].

Narendra Kumar Srivastava, son of Late Munna Lal Srivastava, resident of mohalla - Rail Vihar, Phase I, Chargaon, P.s.: Chilana Tal, P.O.: Chargaon, Town & District : Gorakhpur.

.....APPLICANT.

By Advocate :- Shri A.N.Banerjee.

Vs.

1. The Union of India through the Secretary, Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi.
2. Director General, Doordarshan, Copernicus Marg, Mandi House, New Delhi.
3. Chief Engineer, Eastern Zone, All India Radio & Television, Akashwani Bhavan, 4th Floor, Eden garden, Kolkata.
4. Station Engineer, Doordarshan, Maintenance Centre, Motihari.
5. Secretary of the Government, Ministry of Commerce and Industries, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi.
6. The Secretary, Personnel and Public Grievances, North Block, New Delhi.

.....RESPONDENTS.

By Advocate :- Shri M.K.Mishra, SSC.

O R D E R [ORAL]

Sadhana Srivastava, M[J] :- By means of this OA the applicant has prayed two reliefs. His first relief is to issue a direction upon the respondents to consider his case for repatriation to the parent department from Prasar Bharti on the post

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of Engineer Assistant. The second relief prayed by him is to put forward his service record to the Ministry of Commerce & Industries for consideration of his appointment on transfer to the post of Estate-cum-Security Officer. At the outset the learned counsel for the applicant stated at Bar that as per assertion made in the written statement filed by the respondents, the applicant's case has already been forwarded by the department for appointment as Security Officer, hence this relief does not survive and has not been pressed.

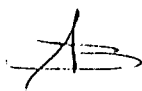
2. The facts, in brief, are that the applicant was appointed on 13.07.1990 as an Engineer Assistant in the Ministry of Information & Broadcasting and presently on deputation to Prasar Bharti Corporation of India, constituted under the Prasar Bharti Broadcasting Act, 1990 [hereinafter referred to as 'the 1990 Act'] which came into force w.e.f. 15.09.1997. Section 11 of the aforesaid Act provides that it shall be lawful for the Central Government to transfer to the Corporation any of the officers or other employees serving in Akashvani and Doordarshan and engaged in the performance of those functions, where the Central Government has ceased to perform the functions which in terms of Section 12 are the functions of the Corporation. Sub-section 5 of Section 11 of the Act, however, provides that every officer or other employee transferred by an order made under sub-section 1 shall within six months from the date of transfer, exercise his option in writing to be governed by the conditions enumerated therein and as such option once exercised under the Act shall be final. However, once the services of the officers or employees of Akashvani & Doordarshan are transferred to the Corporation, they shall become the employee of the Corporation and cease to

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be an employee of the Central Government.

3. In the year 2002 the respondent no.1 had issued two letters clarifying the status of Government employees posted in Prasar Bharti. Both the letters are on record as Annexures-A-1/1 and A-1/2. A bare perusal of annexures show that services of all the government servants presently working in the Prasar Bharti are on deemed deputation without deputation allowance till such time these employees are transferred to Prasar Bharti Corporation in accordance with Section 11 of the 1990 Act or until further order. Now, the grievance of the applicant is that he is still on deputation in Prasar Bharti and it is not known to him, that what is the condition of services of the applicant as well as the promotional avenue. The applicant has already filed a representation dated 15.02.2003 followed by reminder dated 30.07.2004 for repatriation to his parent department. Consequently, the respondent no.1, Prasar Bharti has to pass order thereon. Meanwhile, the Apex Court has also dealt with the stalemate in regard to the status of these Central government employees in the case of Prasar Bharti and Ors. Vs. Amarjeet Singh & Ors. who are on the deemed deputation with the Prasar Bharti Corporation. The Apex Court has also directed the authorities to take a firm decision regarding the status of such persons. The Hon'ble Supreme Court has inter alia observed as follows :-

“We have furthermore notices hereinbefore that the question as to whether the Central Government should pass an order in terms of sub section [1] of Section 11 of the Act or not is pending consideration before its highest authority for a long time. No decision has been taken for more than nine long years. Despite observations made by this Court, the Central



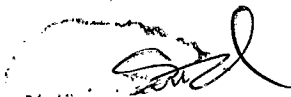
Government has failed and/or neglected to take a decision one way or the other. Ordinarily, this Court would not have issued a direction but the present state of affairs cannot be permitted to continue. The rights of the respondents cannot be allowed to remain in uncertain position for a long time.

We, therefore, while allowing the appeal, direct the Union of India to take a firm decision in terms of Section 11 of the Act within six months from date. The Secretary, Department of Personnel and Training shall file an affidavit before this Court within or immediately after the expiry of the aforementioned period.

Subject to the directions and observations made hereinbefore, the impugned judgments are set aside. These appeals are allowed. However, in the facts and circumstances of this case, there shall be no order as to costs. "

4. In the light of the above situation, we consider it appropriate to direct the respondents to dispose of the applicant's pending representation with reasoned and speaking order within the same period as fixed by the Apex Court in the aforementioned case.

The OA is disposed of with no order as to costs.


[Amit Kushari]/M[A]

True Copy


[S. Srivastava]/M[J]

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SECRETARY, GOVT. OF INDIA
CENTRAL OFFICE
NEW DELHI