

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT : HYDERABAD

O.A.No.390 of 1987 ✓

Date of Order: 14-2-1990 ✓

Between:

J.Narayana

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Applicant

and

1. The Director of News, News Services Division, All India Radio, New Delhi. ✓
2. The Station Director, All India Radio, Hyderabad. ✓
3. Smt.S.Jyothi Kumari, Sr.Stenographer (Grade-II), All India Radio, Hyderabad. ✓

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Respondents

Appearance

For the applicant : Shri KSR Anjaneyulu, Advocate. ✓  
For the respondents : Shri Naram Bhaskar Rao,  
Additional Central Govt.Standing Counsel. ✓

CORAM

HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.  
HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).  
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(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,  
MEMBER (JUDICIAL))

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1. The applicant herein challenges the order of reversion passed by the 2nd respondent dated 4-4-1987 bearing No.Hyd/1(7)/87-S from the category of Senior Stenographer (Gr.II) to Junior Stenographer (Selection Grade) and also seeks a direction to promote him to Sr.Stenographer (Gr.II) in the office of the All India Radio, Hyderabad.

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2. The applicant states that he was working as Junior Stenographer (Selection Grade) in the office of the Station Director, All India Radio, Hyderabad, and he has completed more than 21 years of service. In the year 1982 he was asked to give his option for posting as Senior Stenographer (Gr.II) at various places in India. He declined the offer as his wife was working at Hyderabad in Zilla Praja Parishad High School as Assistant Teacher and therefore he could not accept the promotion outside. Again in 1984 he had to declare a similar option. Thereafter he was given adhoc promotion as Senior Stenographer (Gr.II) w.e.f. 30-3-1985 at All India Radio, Hyderabad, by an order dated 30-3-1985. While working so, the 3rd respondent viz., Smt.S.Jyothi Kumari, who has been working as adhoc Sr.Stenographer (Gr.II) at All India Radio, Cuddapah, got herself reverted (on her own request) to the post of Stenographer (Gr.III) on transfer to All India Radio, Hyderabad, in October 1986. On 7-2-1987, the applicant was asked to give his willingness for promotion to the post of Senior Stenographer on regular basis at the office of the Director of News, News Services Division, All India Radio, New Delhi, i.e. 1st respondent herein. Thereupon the applicant submitted a representation dated 11-2-1987 to the 2nd respondent mentioning how earlier on two occasions he had declined promotion on the specific reason that his wife is working as a Teacher under A.P.Government at Hyderabad. He states that by an identical order dated 7-2-1987, the 1st respondent promoted the 3rd respondent as Senior Stenographer (Gr.II) and posted her at AIR, Hyderabad, in the applicant's place. He further states that he is senior to the 3rd respondent in the Seniority List of Stenographer (Gr.III). Therefore he made a representation questioning as to why

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the 3rd respondent should be retained at Hyderabad. He was informed by the 1st respondent vide his Memo dt. 1-5-1987 ✓ stating that it has not been found possible to accede to his request for retention at Hyderabad as Senior Stenographer and the 3rd respondent was considered for promotion as Senior Stenographer at AIR, Hyderabad, on humanitarian grounds taking into consideration her family circumstances. It is contended that the order of the 1st respondent is with a view to accommodate the 3rd respondent and also to give her advantage or promotion at AIR, Hyderabad, and therefore, the applicant is being shifted out to New Delhi. He, therefore, seeks a direction that the action of the respondents in not promoting him as regular Senior Stenographer (Gr.II) in All India Radio, Hyderabad, and reverting him as Junior Stenographer (Selection Grade) as per the order of the 2nd respondent dated 4-4-1987 is arbitrary and illegal. He seeks a further direction that he should be posted at Hyderabad as Senior Stenographer (Gr.II). ✓

3. On behalf of the respondents a counter has been filed stating that being a lady Smt. Jyoti Kumari i.e. 3rd respondent herein, was considered on humanitarian grounds for promotion to the post of Stenographer Gr.II at Hyderabad. It is further stated that the case of the applicant was also considered, but it was not possible to accept his request. The promotion and the posting of the two individuals i.e. the applicant and the 3rd respondent, were made on the same day and in the same list. It is also contended that the applicant was not ignored for promotion and he has ~~only~~ been transferred on promotion only, which can be done to any place in India. An adhoc posting does not give itself the right to be regula-

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rised or not to be transferred out of the station. It is further contended that the earlier reversion of the 3rd respondent does not debar her from a promotion. The respondents therefore prayed that the application be dismissed.

4. We have heard the arguments of Shri K.S.R.Anjaneyulu, learned Counsel for the applicant, and Shri Naram Bhaskara Rao, learned Additional Central Government Standing Counsel, for the respondents 1 & 2.

5. The applicant has sought two reliefs. The first is to set aside his reversion pursuant to the order No.Hyd/1(7)/87-S, dated 4-4-1987 as arbitrary and untenable and secondly to direct the respondents to promote and post the applicant as Stenographer (Gr.II) at Hyderabad. The facts, as narrated above, disclose that the applicant and respondent No.3 were promoted from Stenographer Gr.III to Gr.II on the same day i.e. 27-2-1987. While the applicant was posted on promotion/transfer to Delhi, the 3rd respondent was posted to Hyderabad. The applicant had on two occasions in the past given up promotion to Grade-II., since the promotion involved transfer out of Hyderabad. Similarly the 3rd respondent sought reversion from Grade-II to Grade-III so that she could also be at Hyderabad. When a vacancy has arisen at Hyderabad, the respondents have considered the hardship caused to the 3rd respondent and posted her to Hyderabad. No doubt the applicant also pleaded hardship and sought retention at Hyderabad, but obviously both requests could not be acceded to since there was only one vacancy at Hyderabad. The applicant by filing the present application seeks that the Tribunal should intervene and give him a posting at Hyderabad. Obviously he wants this Tribunal to adjudicate and determine

whose hardship is more viz., that of the applicant or the 3rd respondent. Such a course, if resorted to, would be wholly beyond the jurisdiction of the Tribunal. It is for the concerned administrative department to apply its mind and determine as to who among the two requires more consideration. The department has accordingly done so. The action of the Department is not assailed on the ground of malafides or as being contrary to any rule or instruction. Transfers are ordered in exigencies of service and it is not for Courts/Tribunals to interfere in normal transfers. We do not think that in exercise of the power of judicial review, we should interfere and determine who has better claims to remain at Hyderabad. Transfer being an incident of service, the applicant has to carry out any orders of transfer or face the consequences. The reversion of the applicant by the order dated 4-4-1987 is consequential to his own request since he refused to shift to Delhi on promotion and due to want of a vacancy. Since the applicant has no right for retention at Hyderabad and since his reversion was at his own request, no interference is called for.

6. The application is dismissed but in the circumstances, without costs.

(Dictated in Open Court)

*B.N. Jayasimha*  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN

*D. Surya Rao*  
(D. SURYA RAO)  
MEMBER (JUDICIAL)

Date: 14<sup>th</sup> February 1990

*S. Venkiah*  
DEPUTY REGISTRAR (J)

9.3.90

NSR  
TO:

1. The Director of News, News Services Division, All India Radio, New Delhi.
2. The Station Director, All India Radio, Hyderabad.
3. Smt. S. Jyothi Kumari, Sr. Stenographer, (Grade-III), All India Radio, Hyderabad.
4. One copy to Mr. K.S.R. Anjaneyulu, Advocate, 1-1-365/A, Jawaharnagar, Bakaram, Hyderabad.
5. One copy to Mr. Naram Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One spare copy.

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kj.

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*9/6*