

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::GUWAHATI-5.

O.A.No. 108 of 1997.

4.3.1998.
DATE OF DECISION.....

Shri Anupam Bhattacharjee (PETITIONER(S))

Shri J. Deb. ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Shri S.Ali, Sr.C.G.S.C for Respondents No. 1 to 5.

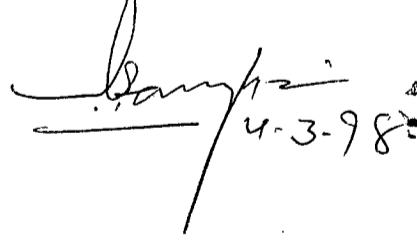
Shri M.Chanda, Advocate for respondent No.6.

THE HON'BLE

SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? NO
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member


4-3-98

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 108 of 1997.

Date of Order : This the 44th Day of March, 1998.

Shri G.L.Sanglyine, Administrative Member.

Shri Anupam Bhattacharjee,
C/O Sri Anita Roy,
Battelion Gate, Near South Point
English School,
P.O. Binovanagar,
Guwahati-18.

... Applicant

By Advocate Shri J.Deb.

- Versus -

1. Union of India
through the Secretary to the
Govt. of India, Ministry of Information
and Broadcasting, New Delhi-1.
2. The Director General,
All India Radio, Akashvani Bhawan,
New Delhi.
3. The Deputy Director General,
North Eastern Region,
All India Radio, Guwahati-3.
4. The Station Director,
All India Radio,
Chandmari, Guwahati-3.
5. The Assistant Director,
O/O the Deputy Director General (NE)
All India Radio,
Chandmari, Guwahati-3.
6. Miss Dipali Boro, UDC
O/O the Station Director,
All India Radio, Itanagar,
Arunachal Pradesh. ... Respondents.

By Advocate S.Ali, Sr.C.G.S.C for respondents
No.1 to 5 and Mr M.Chanda, for respondent No.6.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

The applicant is an Upper Division Clerk under the All India Radio (AIR for short) and he was working in that capacity in the AIR Guwahati. He was transferred to AIR, Itanagar vide order dated 31.7.1996. He had submitted an

Original Application No.248/96 against the transfer order. His contention was regarding the legality of the impugned order dated 31.7.1996 which was issued with the approval of Shri Thanmawia, the then Deputy Director General. It was the contention of the applicant during the course of hearing of the earlier O.A. that Shri Thanmawia was carrying on official duties after 31.5.1996, the date of his superannuation. Further, the impugned transfer order was issued with his approval given after the date of his superannuation and therefore is not sustainable in law according to the applicant. After perusal of the official records produced on behalf of the respondents and hearing counsel of both sides the application was disposed of on 16.4.1997 with direction to the applicant to submit representation to the respondents and also to the respondents to consider the request of the applicant to cancell his order of transfer and to dispose of his representation with a speaking order. The applicant submitted representation dated 17.4.1997. The respondents disposed of the representation on 13.5.1997 as below :

"The representation for cancellation of transfer order in respect of Shri A. Bhattacharjee, UDC, AIR, Guwahati dated 17/4/97 forwarded by SD, AIR, Guwahati vide his letter No.14(6)/96-S(CAT CASE) A.Bhattacharjee/1996 dated 24.4.97, has been carefully reconsidered by the DDG (NE), AIR, Guwahati.

However, it has not been found possible to accede to his request in the interest of the service.

Accordingly, this revised order is issued as per DDG(NE)'s instructions, asking the Station Director, AIR, Guwahati to relieve Shri Anupam Bhattacharjee, UDC to report for duties at AIR Itanagar immediately."

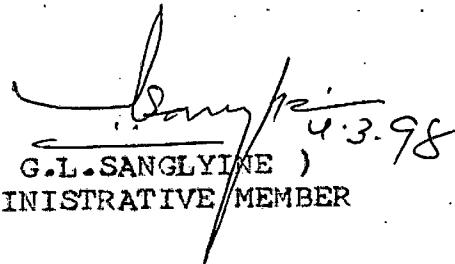
2. Mr J.Deb, learned counsel for the applicant, submitted that the above order dated 13.5.1997 has continued and upheld the illegal order dated 31.7.1996. He also submitted that

the order dated 13.5.1997 is not only against the direction of this Tribunal but also was issued without application of mind and it is not a speaking order. Mr S.Ali, the learned Sr.C.G.S.C, supported the written statement of respondents No. 1 to 5 denying the contention of the applicant and stating that his representation was duly considered by the competent authority. Mr M.Chanda, learned counsel for the respondent No.6, was present and submitted that respondent No.6 was already transferred to Guwahati by another order.

3. Heard counsel of the parties. Perusal of the impugned order dated 13.5.1997 as quoted hereinabove would clearly show that there was no fresh order of transfer issued by the respondents to the applicant. On the other hand it is a revised order directing the Station Director, AIR, Guwahati to relieve the applicant with a direction to report for duties at AIR, Itanagar. In short this order has perpetuated the order of transfer dated 31.7.1996 and the applicant was directed to comply with it. The order dated 13.5.1997 had rejected the representation of the applicant on the ground of "in the interest of the service". No details have been spelt out therein. In the written statement however, it has been the contention of the official respondents that after due consideration of the representation of the applicant the competent authority rejected the prayer of the applicant to cancell the order of his transfer as, according to them, there was no reasonable ground for its cancellation. Further, they state that the applicant did not even mention his "actual personal problems" in his representation and therefore his request could not be accommodated. These contentions

of the respondents are at variance with the reason given in the impugned order, i.e., in the interest of the service. The applicant had raised certain contentions in his representation dated 17.4.1997. The respondents did not deal with any of them. I am satisfied that no speaking order had been issued by the respondents disposing the representation of the applicant. The order dated 13.5.1997 therefore is liable to be set aside. Accordingly, it is hereby set aside. The respondents are at liberty to consider afresh the representation of the applicant.

Application is disposed of. No order as to costs.


4.3.98
(G.L.SANGLYINE)

ADMINISTRATIVE MEMBER