

O.A.No.....167..... of 1998

DATE OF DECISION.....15.3.2000.....

Shri Bijay Krishna Banik ----- PETITIONER(S)

Mr.M.Chanda & Mrs.N.D.Goswami ----- ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors ----- RESPONDENT(S)

Mr.A. Deb Roy, Sr.CGSC ----- ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. G.L. SANGLYINE, ADMINISTRATIVE MEMBER

THE HON'BLE SMT LAKSHMI SWAMINATHAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ? *yes*
 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 Smt L. Swaminathan, Judicial Member

Lakshmi Swaminathan

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. 167 OF 1998

Date of Order - 15th March, 2000.

HON'BLE MR. G.L. SANGLYINE, ADMINISTRATIVE MEMBER
HON'BLE SMT LAKSHIM SWAMINATHAN, JUDICIAL MEMBER.

Shri Bijay Krishna Banik,
Working as Senior Grade Announcer,
(Grade-III), All India Radio
at Agartala, Tripura State,
S/O Late Girish Chandra Banik,
Resident of Uzir Bari, Palace Compound,
East of Town Hall, P.S. East Agartala,
Dist West Tripura.

- APPLICANT

By Advocates Mr.M. Chanda & Mrs. N.D.Goswami.

- Versus -

1. The Union of India
to be served upon the Secretary to
the Government of India, Ministry
of Information & Broadcasting,
New Delhi.
2. The Director General,
All India Radio,
Prasar Bharati,
Broad-Casting Corporation of India,
Directorate General of All Radio
Radio, Akashbani Bhawan,
Parliament Street, New Delhi-110 001.
3. The Director of Programmes (PER),
Prasar Bharati, Broad-Casting Corporation
of India, Directorate General, All India
Radio, Akashbani Bhawan, Parliament Street,
New Delhi-110 001.
4. The Station Director,
Prasar Bharati, Broad-Casting Corporation
of India, All India Radio, Agartala,
Palace Compound.
5. The Administrative Officer,
Prasar Bharati (Broad Casting Corporation
of India), All India Radio, Agartala.

- RESPONDENTS

By Advocate Mr.A. Deb Roy, Sr CGSC

O R D E R (ORAL)

SMT LAKSHMI SWAMINATHAN, MEMBER (JUDICIAL)

The applicant is aggrieved by the transfer order passed by the respondents dated 7.4.1998 transferring him as Announcer Senior Grade from All India Radio, Agartala to All India Radio, Balonia (for short 'A.I.R.') and rejection of his representation by order dated 30.6.1998. Subsequently, the applicant has been relieved by order dated 24.7.1998 which is impugned in this O.A.

2. The present application is the second round of litigation by the applicant. Earlier, he had filed O.A. 94/98, which was disposed of by the Tribunal's order dated 20.5.1998. The respondents in their written statement have submitted that the applicant had submitted a representation against the transfer order dated 7.4.1998 on 23.4.1998 to the Director General, A.I.R. New Delhi, through proper channel. However, before the same was disposed of by the competent authority, he had filed O.A. 94/98. By the Tribunal's order dated 20.5.1998, the respondents were directed to consider and dispose of the representation by a reasoned speaking order, which was done by the order dated 30.6.1998.

3. Mr. MaChanda, learned counsel for the applicant has submitted that the disposal of the applicant's representation has not been done by a speaking order. We are unable to agree with the contention of the learned counsel as the respondents have mentioned the reason in the

order ...

order dated 30.6.1998.

4. One of the main contentions of the learned counsel for the applicant in impugning the transfer order dated 7.4.1998 is that the applicant being a Grade-III Announcer, cannot be transferred to A.I.R., Belonia, as there is no Grade-III post there. This according to him, is lowering ^{the} of his status, although it does not appear that ~~the~~ respondents have sought to reduce him from a Grade-III Announcer. He relies on the judgment of the Supreme Court in E.P. Royappa v. State of Tamil Nadu (AIR 1974 SC 555).

5. Another contention of the learned counsel for the applicant is that the aforesaid impugned transfer order is contrary to the provisions laid down in the Transfer Policy. He submitted that the respondents could not have transferred the applicant when admittedly there are other persons who are having long stay at Agartala, namely, Shri Banik Chakraborty, Announcer Grade-III. He has also submitted that the A.I.R. Station at Agartala is a Group-A Station whereas the A.I.R. Station at Belonia is a Group-B Station. Taking into account these factors, the learned counsel has vehemently submitted that the transfer of the applicant means that he has been lowered in status which, therefore, has caused him prejudice. He has contended that there were three other junior officers who could not have also been transferred to Belonia which has also not been done. He, therefore, contends that the respondents have illegally picked up the applicant for

transfer ..

transfer by the order dated 7.4.1998 from Agartala to Belonia.

6. The respondents in their written statement have submitted that after considering the facts, they had no option but to transfer the senior Announcer from A.I.R., Agartala to A.I.R., Belonia. They have stated that the duties and responsibilities in both the grades of Announcers i.e. Grade IV and Grade III are the same and accordingly, there is no violation of the transfer rules. They have also clarified that the applicant has been transferred in the same capacity i.e. Grade III to A.I.R. Belonia as stated in the order dated 24.7.1998. This order has been enclosed by the applicant himself at Annexure-A/10. Mr. A. Deb Roy, learned Sr.C.G.S.C. has submitted that in terms of the appointment order of the applicant, the agreement further provides that the applicant is required to proceed to 'any part of India' on transfer or special assignment depending on the exigencies of the work. The learned counsel has further submitted that the transfer policy relied upon by the applicant cannot assist him because although normally, the officers may not be transferred from one station to another, there is no bar to such transfer, taking into account the facts and circumstances of a particular case. He has also submitted that the representation of the applicant has been duly considered by the competent authority and it was not found feasible to accept his request for cancellation of the transfer order. He, therefore, prays that the O.A. may be dismissed.

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7. We have considered the pleadings and rival contention of the learned counsel for the parties.

8. The impugned transfer order dated 7.4.1998 read with the order dated 24.7.1998 shows that the applicant has been transferred to A.I.R., Belonia in the same capacity as held by him before his transfer as Announcer Grade-III in A.I.R., Agartala. The respondents have also stated that this is the position. We are not impressed by the submissions made by the learned counsel for the applicant that as there is no sanctioned post at Belonia for Grade-III Announcer, it would cause difficulty to the respondents because that is a matter for the respondents to take care of as stated by them in their letter dated 30.6.1998.

9. The Transfer Policy laid down by the respondents for Staff Artists by Circular dated 11.12.1992 provides that at lower levels the Broadcasting officers are to be given opportunity to serve 'B' and 'A' stations to enable them to get experience of all aspects of broadcasting. It is further provided that, as far as possible, every employee will be posted also to the 'C' category station during his service. Taking into account these provisions the submissions made on behalf of the applicant that he cannot be transferred from higher grade station to a lower grade station is ^{not} acceptable as the same is not borne out by the provisions of the Transfer Policy. Para-9 of the transfer policy reads as follows :-

"When the questions of transfer is considered, as a normal rule, a person with the longest

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continuous ...

continuous stay at the station, irrespective of the rank (s) held by him earlier, should ordinarily be transferred first. For this purpose, the service rendered at a Station as a local recruit will not be taken into consideration for determining the length of continuous stay at that station. Also, the actual period of continuous service at the site(s) of installation(s) will be excluded for computation of continuous stay provided the period of stay at the installation is more than ninety days in a calendar year."

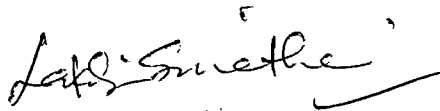
10. In view of the above provisions in the Transfer Policy, which only provides a guidance in the normal circumstances, the action of the respondents cannot also be faulted in transferring the applicant from A.I.R., Agartala to A.I.R., Belonia. The submission made by the learned counsel for the applicant that only the persons with the longest stay at Agartala could have been transferred cannot also be accepted, in the circumstances of the case. In the facts of the present case, therefore, it cannot be concluded that the transfer of the applicant from one station to another is outside the Transfer Policy issued by the respondents dated 11.12.1992.

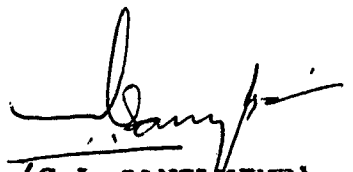
11. On the question of lowering of the status of the applicant because he has been transferred to a station where there is no sanctioned post for a Grade-III Announcer, in view of the respondents' order dated 24.7.1998, we do not find merit in the submission. It is made clearⁱⁿ that order that the applicant has been transferred in the same capacity and is receiving the same salary / Announcer Grade-III^{as due to an}

In that ..

In this connection, the Judgment of the Supreme Court in N.K.Singh V. Union of India & Ors, (1994) 28 ATC 246 is relied upon. Nothing has been placed on record to show that either the applicant's career prospects has been adversely affected or there has been any detriment to the applicant which would justify our interference in the present transfer order in exercise of the power of judicial review. The judgment of the Hon'ble Supreme Court in E.P.Royappa's case (Supra) relied upon by the applicant will also not assist him in the facts of the present case as there is no lowering of the status on his transfer from Agartala to A.I.R. Belonia as the respondents have clearly stated that he has been transferred in the same capacity.

12. In the result, for the reasons given above, we find no merit in the application or any justification to interfere with the matter. The application accordingly, fails and is dismissed. The interim order dated 30.7.1998 is hereby vacated. No order as to costs.


(SMT LAKSHMI SWAMINATHAN)
Member(Judicial)


(G.L.SANGLYINE)
Member(Admin)