

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR.

O.A.No.279/2005

Decided on : June 14, 2005.

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN

Braj Lal son of Shri Chunni Lal, aged about 46 years, Resident of Railway Loco Colony, Quarter No.L/109-C, Jaipur at present posted as Head Clerk in the office of Doordarshan Kendra, Jaipur.

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Applicant

By : Mr.R.K.Jain, Advocate.

Versus

- 1.Union of India through Secretary, Ministry of Information and Broadcasting, Prasar Bharati Board, Shastri Bhawan, New Delhi.
- 2.The Director General, All India Radio/Prasad Bharti, Broadcasting Corporation of India, Akashvani Bhawan, Parliament Street, New Delhi-110001.
- 3.Station Director, All India Radio/Prasar Bharti, Broadcasting Corporation of India, Jaipur.

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Respondents

By : None.

ORDER(oral)

KULDIP SINGH,VC

The challenge of the applicant in this O. A. is to the order dated 6.6.2005 (Annexure A-1) by which he has been transferred from Doordarshan kendra, Jaipur to Chlordanes Kendra, Kota.

The facts as alleged by the applicant are that he was




transferred from Doordarshan Kendra, Jaipur to Akashvani, Alwar, vide order dated 7.8.2000 (Annexure A-2). Then he was transferred from Akashvani, Alwar to Doordarshan Kendra, Jaipur vide order dated 16.8.2004 (Annexure A-3). He joined on 18.8.2004 at Doordarshan Kendra, Jaipur, vide order dated 20.8.2004 (Annexure A-4). Now, he has been transferred to Doordarshan Maintenance Centre, Kota. The transfer is alleged to be against the established principles of law. He is having three daughters and three sons and all of them are studying in colleges and schools. His wife is suffering from Blood Pressure and due to this applicant is not able to transfer his family. The daughter of applicant is studying in M.A. Final year and her date of engagement has been fixed for 12.6.2005. As per transfer policy the normal stay should have been four years but he has been transferred only after 9 months.

I have heard learned counsel for the applicant at length and gone through the pleadings of the O.A.

I find that applicant has not been able to pin point any illegality in his transfer to Kota. Undisputedly, it is a chain transfer involving 4 persons and any interference with one person will effect the chain. Undisputedly, the applicant is working on a transferable post and is liable to be transferred to the place he has been posted.

Hon'ble Supreme Court of India in the case of Abani Kanta Roy



Vs. State of Orissa (1996) 32 ATC, Page 10, has held that transfer which is an incident of service is not to be interfered with the Courts or Tribunals unless same is shown to be arbitrary or vitiated by malafide or infraction of professed norms of principles of governing transfer. In the cases of State of M.P. Vs. S.S.kaurav, 1995 SCC (L&S), Page 666; State of Rajasthan Vs. Prakash Solanki, 2003 (7), SCC, 409; V.Jagannadha Rao Vs. State of A.P., 2001 (10) SCC, 414 & State Bank of India Vs. Anjan Sanyal, 2001 (5) SCC, 514, it has been held that unless the transfer is vitiated by malafide; arbitrariness or is enforced as a punishment, the same cannot be interfered with. I do not find that the transfer of the applicant is on account of malafide or arbitrariness on the part of the respondents nor there is any violation of statutory rules. In so far as policy of respondents regarding transfer is concerned that there should be four years stay, let it be stated that even on this point, the Hon'ble Supreme Court has taken a view in Union of India & others Vs. S. L. Abbas, AIR 1993 SC Page 2444, that Guidelines issued by the government do not confer upon employee any legally enforceable right. In that case the order of transfer was made without following guidelines. The Court held that the order cannot be interfered with by Court unless it is vitiated by malafide or is made in violation of statutory provision. The C.A.T not being appellate authority, cannot substitute its own judgment for that of competent



authority. It cannot substitute its own judgment for that of the authority competent to transfer.

However, in so far as personal problems are concerned that are to be considered by the competent authority. Undisputedly, the applicant has not yet submitted any representation to the respondents against his transfer order.

In the result I do not find this O.A to be a triable case, thus, it is dismissed in limine. However, the applicant will be at liberty to applicant to submit a representation against his transfer order within a period of 15 days from today and if such representation is submitted the respondents are directed to consider the same and pass an order on the same within a period of 30 days from the date of receipt of the representation. However, in so far as transfer on merits is concerned, that stands settled.


(KULDIP SINGH)
VICE CHAIRMAN

June 14,,2005.

HC*