

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 30th day of June, 2005

ORIGINAL APPLICATION No. 297/2005

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Maliram s/o Shri Hanuman Prasad, age about 52 years,
r/o village Kaladera, Near Post Office, District
Jaipur presently working as Upper Division Clerk,
Doordarshan Kendra, Jaipur.

.. Applicant

(By Advocate: Shri Amit Mathur)


Versus

1. Union of India through
Secretary,
Ministry of Information and Broadcasting,
Sanchar Bhawan,
New Delhi.
2. The Director,
S-2, Akashwani Bhawan,
Sansad Marg,
New Delhi.
3. Station Director,
Akashwani,
Jaipur.
4. Station Director,
Doordarshan Kendra,
Jhalana Doongri,
Jaipur.

.. Respondents

ORDER (ORAL)

The applicant has filed this Original

 Application, praying for the following reliefs:

- i) The original application preferred by the applicant may kindly be allowed and order dated 6.6.2005 and 21.6.2005 may kindly be quashed and set-aside. The respondents may further be directed to keep the applicant at Doordarshan Kendra, Jaipur.
- ii) Any other appropriate relief which this Hon'ble court may feel proper and just in the facts and circumstances of the case may kindly be allowed in favour of the applicant.
- iii) Cost of the original application be awarded in favour of the humble applicant.

2. Briefly stated facts of the case are that the applicant while working as Upper Division Clerk at Doordarshan Kendra, Jaipur was transferred to Akaswani, Nagaur vide order dated 6.6.2005 (Ann.A1). The said order of transfer was challenged in OA No.278/2005. This Tribunal vide order dated June 14, 2005 dismissed the OA filed by the applicant on merits. It was observed that the applicant has not been able to pin point any illegality in his transfer to Nagaur. It is a chain transfer involving 21 persons and only interference with one person will effect the chain. It was further held that transfer of the applicant is neither on account of malafide or arbitrariness on the part of the respondents nor any violation of the statutory rules. However, keeping in view of the personal problems of the applicant and the fact that representation of the applicant has not been decided by the respondents, the respondents were directed to consider representation submitted by the applicant against his transfer and pass an order on

the same within a period of 30 days from the date of receipt of the order. It was further observed that till such order is passed, the operation of the impugned order qua the applicant shall remain stayed. On merits, the case stands dismissed.

3. The respondents have now passed order dated 21.6.2005 (Ann.A2) whereby representation of the applicant has also been dismissed. Now the applicant has again filed this OA thereby challenging the original order of transfer dated 6.6.2005, the validity of which transfer has been upheld by this Tribunal in earlier OA as well as the subsequent order dated 21.6.2005 passed on the representation of the applicant pursuant to the order passed by this Tribunal in earlier OA, vide which the request of the applicant has been rejected.

4. I have heard the learned counsel for the applicant at admission stage. I am of the view that the applicant is not entitled to any relief. So far as quashing of the order of transfer dated 6.6.2005 is concerned, it may be stated that validity of the said order was under challenge before this Tribunal in earlier OA and the validity of the said order was upheld by this Tribunal vide judgment dated June 14, 2005. As such, it is not permissible for the applicant to challenge the said order again in these

proceedings. In case the applicant was aggrieved by the judgment dated June 14, 2005 passed in OA No.278/2005, the remedy was available to the applicant before the higher forum. Thus, no relief can be granted to the applicant on this count and the order cannot be quashed. As regards the order dated 21.6.2005 whereby the representation of the applicant has been rejected by the competent authority, it may be stated that the said order can also not be quashed. In fact, the Tribunal in earlier OA has upheld the validity of the transfer of the applicant made vide order dated 6.6.2005 on merits. By way of indulgence, the operation of the said order was stayed till fresh order on the representation of the applicant is made by the respondents, which representation was pending. Now the respondents have also rejected the said representation. Since the Tribunal has granted limited indulgence by staying the order of transfer dated 6.6.2005 and accommodating the applicant at Jaipur till the representation is not decided, the said fact will not vitiate the impugned order of transfer dated 6.6.2005 after the rejection of representation. Thus, it is the basic order of transfer dated 6.6.2005 which will hold the field and has attained finality and rejection of the representation of the applicant vide order dated 21.6.2005, even if it is quashed, will not materially effect the transfer of the applicant to Akaswani, Nagaur.

5. Accordingly, the OA is dismissed at admission stage with no order as to costs.



(M.L. CHAUHAN)

Member (J)

R/