

AS/3/12 ✓
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 246 of 1994.

Date of Order : This the 23rd Day of December, 1994.

Shri H.K.Padmakar Applicant

-Vrs -

Union of India & Ors. Respondents.

For the Applicant : M/S B.K.Sharma, B.Mehta &
S.Sarma.

For the Respondents : Mr S.Ali, Sr.C.G.S.C

C O R A M :

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMINISTRATIVE)

O R D E R

Learned counsel Mr B.K.Sharma moves this application under Section 19 of the Administrative Tribunals Act 1985 on behalf of the applicant Shri H.K.Padmakar, Executive Engineer(Civil), All India Radio, Civil Construction Wing, Guwahati Division No.1, Guwahati who is under order of transfer from Guwahati to New Delhi. A copy of the application has been served on learned Sr.C.G.SC Mr S.Ali, who is present.

2. Heard learned counsel Mr B.K.Sharma and learned Sr.C.G.S.C Mr Ali. The application is admitted and taken up for disposal at this admission stage.

3. The applicant was transferred from Nagpur to Guwahati as ASW(Civil) vide order No.A-22012/1/91-CW.I dated 21.1.1992 (Annexure-A). While working as such in Guwahati he was promoted to officiate on adhoc basis in the grade of Executive Engineer(Civil), All India Radio on 17.12.93. He had submitted

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a representation dated 11.5.94 for transfer to Nagpur, Bhopal, Pune or Panaji (Annexure-D) on the ground that these are the places of his choice for posting. It has been submitted by Mr B.K.Sharma that the applicant has completed the term of his tenure posting in North Eastern Region and has a right to be considered for posting in any of the places of his choice. It has further been submitted by him that the applicant has based this claim on the basis of office memorandum No.20014/3/83.E.IV dated 14.12.1983 (Annexure-C). It also appears that the applicant had submitted another representation dated 14.7.94 requesting for transfer to any of the above mentioned places of his choice. This representation was forwarded by his superior officer, Superintending Engineer(Civil) to the Director General, Civil Construction Wing, All India Radio, New Delhi vide letter No.AIR/CCW/SE-GH/PF-HKP/EE(C)-1/6396 dated 23.7.94 (Annexure-F). In the meantime the applicant was transferred from Guwahati to EE(CCC) SE(T) Unit which is stated to be in New Delhi. The applicant is aggrieved by this order and he has impugned the same in this application.

Having heard learned counsel Mr Sharma and on perusal of the facts of the case as stated in this application it is seen that the applicant was transferred by the aforesaid order dated 27.10.94 without his representations having been considered inasmuch as no reply was given to the applicant by the authorities concerned. There is no doubt that under the scheme of benefits granted to the Central Government employees posted in the North Eastern Region that the applicant has got a right to be considered for posting in

any of the places of his choice as far as possible. While transfer orders should not be ordinarily interfered with but in the facts of this case the authorities concerned are directed to consider the case of the applicant by disposing of the representations dated 11.5.94 and dated 14.7.94 submitted by him and forwarded by letter dated 23.7.94 mentioned above and also the representation dated 31.10.94 which was submitted by him after the transfer order was issued. It is specifically stated by the applicant that as on today a post of Executive Engineer is still lying vacant at Bhopal. Bhopal is one of the places which the applicant has indicated as his place of choice for posting. In the circumstances it will not be difficult for the Respondents No.1 and 2 to consider the case of the applicant sympathetically and to accommodate him in Bhopal in the existing vacancy in terms of office memorandum No.20014/3/83.E.IV dated 14.12.83(Annexure-C) insofar as it relates to "Tenure of Posting/Deputation" mentioned therein. In the event that it is not possible to accommodate the applicant in the existing vacancy in Bhopal for any reason the Respondents No.1 and 2 may consider for posting him in any one of the places of his choice against existing or future vacancy. In the light of the directions given above the respondents No.1 and 2 are directed to dispose of the representations of the applicant within 31.1.1995. Pending disposal of the representations the respondents are directed not to implement the transfer order No.A-22012/3/94-CW.I dated

27.10.94(Annexure-G) in respect of the applicant, if not already given effect to, and to allow him to continue in the post of Executive Engineer(Civil) in Guwahati Division-I. Apparently, this will not create much difficulty for the respondents as it is seen that the post in Guwahati is to be held as an additional charge by another incumbent Shri Shiv Pujan Prasad, ASW(C) and also that the post in New Delhi is an existing vacant post.

5. The application is disposed of with the above directions. No order as to costs.

6. Copy of the order be furnished to the respondents and the counsel of the parties.


23/12/94
(G.L. SANGLYINE)
MEMBER(A)