

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00939/2018

Thursday, this the 6th day of December, 2018

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

Pournami.Y.S

Aged 45 years

W/o.Sylesh.C.G

Kamalasree

Keerankulangra

Thrissur – 5

Announcer (now under orders of suspension)

All India Radio

Thrissur District

..... **Applicant**

(By Advocate – Mrs.Girija K.Gopal)

V e r s u s

1 The Director General
All India Radio
Akashvani Bhavan
Parliament Street
New Delhi – 100 001

2. Deputy Director (Engineering)
Head of Office
All India Radio
Thrissur District – 680 631

3. Head of Programmes
All India Radio
Thrissur District – 680631

4. S.Narayanan Namboothiri
Program Executive (Coordinator)
All India Radio
Thrissur District – 680 621

..... **Respondents**

(By Advocate – Mr.N.Anilkumar,SCGSC for R 1-3 and Mrs.Thanuja George for R4)

This Original Application having been heard and reserved for orders on 3.12.2018, the Tribunal on 6.12.2018 delivered the following:

ORDER

***Per:* MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

Original Application No.180/00939/2018 is filed by Ms.Pournami.Y.S, Announcer, All India Radio,Thrissur against the order at Annexure A-17, issued by the first respondent viz Director General, All India Radio dated 8.11.2018, suspending her from service pending enquiry. The reliefs sought in the Original Application are as follows:

- “(i) Declare that Annexure A17 order is bad in law
- (ii) To set aside Annexure A17 order issued by the 1st respondent
- (iii) To direct respondents 1 to 3 to reinstate the applicant in service forthwith, duly treating the period of suspension undergone by her as duty for all purposes
- (iv) To declare that action on the part of respondents 1 to 3 in retaining the 4th respondent at Thrissur and further permitting him to act as Head of Office (a) pending investigation in Annexure A2 FIR against him, (b) enquiry by the ICC against him (c) Annexure A12 request by applicant to keep him out of office, and (d) issuance of orders of transfer as early as on 7.6.2018 transferring him from Thrissur, is arbitrary and illegal, and further to direct respondents 1 to 3 to keep the 4th respondent out of Thrissur office.
- (v) Award costs incidental to this application and
- (vi) Pass such other orders or directions which are deemed just, fit, proper and necessary in the facts and circumstances of the case.”

2. The same relief, a stay on the operation of Annexure A-17 that has already come into force, is sought by way of interim relief also. Ms.Pournami

describes various difficulties that she has been facing at her work place allegedly at the hands of the 4th respondent, who is the Programme Executive (Co-ordinator). She submits that a complaint filed by her against the said respondent under 'The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act 2013', is pending disposal. She claims that the 4th respondent had been transferred out of Thrissur All India Radio on 7.6.2018 as per Annexure A-3, but has been continuing at Thrissur itself. She admits that the said respondent is the Head of Office and she has to report to him.

3. The applicant claims in the Original Application that she has impeccable credentials of her professional acumen. She has won several awards, both at the State and National level. However, the 4th respondent has been picking on her for flimsy reasons and has caused her great distress professionally and emotionally. She further submits that his disputes with Mr.V.Udayakumar, Programme Executive, have coloured the former's views of the applicant and she implies in the O.A that there is a feeling on the part of the 4th respondent that she is in league with the said Mr.V.Udayakumar and working against the 4th respondent. Annexure A-1 is a copy of an FIR registered against Mr.V.Udayakumar at the instance of the 4th respondent and Annexure A-2 is a copy of an FIR registered by Mr.V.Udayakumar against 4th respondent. These documents clearly show the grave animosity between the two, in which the applicant has no role, she claims. She is incensed by the fact that despite the transfer of the 4th respondent to Trivandrum as early as on 7.6.2018 as per Annexure A-3, he is carrying on with his work in Thrissur.

4 Applicant further submits that the 3rd respondent had issued an Office Order dated 13.8.2018 at the instance of the 4th respondent to make her work directly under the latter, much to her discomfiture. Further, she is being asked to move to a room with less facilities. Again the 4th respondent refused to assign the preparation of duty chart to the applicant that she is entitled for and he himself prepared the same. The 4th respondent had attempted to assign night duties to the applicant with ill motives. In any case, a complaint filed by the applicant against the 4th respondent is being enquired into by the Internal Complaints Committee (ICC) under the Harassment Act of 2013. Due to these facts, the applicant was constrained to file a representation on 5.11.2018 to the Head of Programmes requesting that the 4th respondent may be taken off the position of Programme Executive Co-ordination (Annexure A-12).

5. The applicant further submits that the 4th respondent had made adverse remarks in the APAR of the applicant for the period 2017-2018. The comments recorded by the 4th respondent, “ It would be a welcome change if the official prefers to work following Office norms, considerate towards all sections.”, reveal his state of mind towards the applicant. She is also aggrieved by the continuance of 4th respondent in the office despite Annexure A-2 FIR launched against him and the ICC proceedings.

6. Due to these various difficulties, applicant's health suffered and she had to be hospitalized on 9.11.2018. While returning from the hospital, she came across the impugned order, suspending her from service. The allegation against her is that she has used abusive language in office and that she had involved

herself in an alleged conspiracy to attack respondent no.4, both of which she denies.

7. She calls to her assistance the judgment in *State of Orissa v. Bimal Kumar Mohanty*, 1994(4) SCC 126 and submits that Annexure A-17 is issued without any application of mind or with reference to material on record and therefore, is liable to be interdicted by the Tribunal.

8. The official respondent nos.1-3 have filed a reply statement denying the various imputations in the Original Application. The applicant, who is a permanent Announcer since 1994 was tasked with assisting Mr.V.Udayakumar who was also a Programme Executive in AIR, Thrissur until he was transferred on 7.6.2018. Then she came to be attached with Smt.K.Usha but the applicant refused to move with her Programme Executive to the designated room citing flimsy reasons. Offended by this innocuous placement in office, it is alleged that she unleashed a verbal fusillade against respondent no.3 on 27.8.2018. Annexure A-4 order dated 30.8.2018 was issued in this background due to the apparent and obstinate refusal of the applicant to obey the order of the 3rd respondent who is the Head of Office. Further a detailed representation of respondent no.3 to the 2nd respondent on 5.9.2018 (Annexure R-1) has described the dislocation being caused to the office by the insubordinate behaviour of the applicant.

9. Meanwhile as a side story, the 4th respondent was attacked at his residence on the same day the applicant had used abusive language against

respondent no.3 and copy of the complaint addressed to the first respondent is at Annexure R-2. On receiving Annexure R-2 representation filed by the 4th respondent, ADG AIR Bangalore ordered a Fact Finding Inquiry to be conducted by Smt.Chitralkha, Programme Head, AIR Coimbatore (Annexure R-3). A copy of the Inquiry report submitted by the said official on 24.9.2018 is at Annexure R-4. The report ostensibly found fault with Shri.V.Udayakumar. His misconduct extended to, among other charges,

“ sitting in the office premises after office hours, playing cards and is in the habit of coming to office consuming alcohol”

10. In so far as the applicant in the Original Application is concerned, the following observation also is made in the report:

“Further he always demanded the assistance of Smt.Pournami, Sr.Announcer for all his programme production activities. On 27th August 2018 morning, in one such official procedures, difference of opinion occurred and Shri.Y.S.Pournami is said to have shouted & abused a Programme Executive and also Sri.T.T.Prabhakaran, HOP, AIR, Thrissur over phone and was yelling that the reason for all these is Sri.Narayanan Namboodiri and that she will break the ‘bald head’.”

11. The arguments of Smt.Girija K.Gopal, learned counsel for the applicant were on the same lines as made in the O.A. She attributes the misfortunes the applicant had been forced to suffer to the complaint under the Harassment Act that she had filed against the 4th respondent. She submits that the applicant has no role in the dispute between respondent no.4 and Shri.V.Udayakumar. The

applicant has been a much decorated Announcer whose professional status is sought to be destroyed by respondent no.4. A certificate to this effect is seen in the statement given by her current Supervisor Smt.K.Usha at Annexure A-23.

12. Shri.N.Anilkumar,SCGSC, learned counsel for the official respondents submitted that serious insubordination and unacceptable conduct has been the hallmark of the applicant's behaviour. She has concentrated all her attacks on respondent no.4 who, she feels, was responsible for her difficulties. The report of Head of Programmes at Annexure R-1 bears testimony to the state of affairs for which the applicant is responsible. The Inquiry conducted by an independent officer from outside Thrissur Station has found fault with Shri.V.Udayakumar but also refers to the link between the applicant and the said Mr.V.Udayakumar who is accused in an assault case against respondent no.4.

13. The Original Application was listed for consideration of interim relief on 15.11.2018. Having heard the matter in detail and as agreed to by counsel representing the respective sides, it was finally heard on 3.12.2018.

14. The charges and the counter charges contained in the Original Application and the reply to the same paint a forbidding picture of the affairs of an important station of this pivotal Government of India establishment. Whatever be the acumen of the applicant in discharging her professional

duties, from the evidence before us, she seems to be at odds with some of her colleagues. We do not wish to go into the details of the ICC complaint which, in any case, is being dealt with separately, but she appears to give no respite to her Controlling Officer, who is respondent no.4. The Head of Office who is the Head of Programmes has addressed Headquarters through communication at Annexure R-1 which reflects poorly on her. It is somewhat unusual for a Head of Office to request his official superiors that “he be insulated from any clandestine attempts that could possibly be perpetrated by the accused merely by virtue of being a lady official”. He clearly expects great misfortune to descend on his head for his action in having moved the applicant to a different duty room. These are indeed harsh words to describe the actions of a subordinate and from this point of view, the step taken by respondent no.1 through Annexure A-17 is with adequate justification. The learned counsel for the applicant argued that the impugned order at Annexure A-17 suspending the applicant from service charges her with using abusive language at work place and also with involving herself in conspiracy for physical attack on respondent no.4. The learned counsel maintains that these are without any basis. In so far as the first charge is concerned, the report of respondent no.3, the Head of Office addressed to Headquarters at Annexure R-1 is evidence enough about her misdemeanour. In so far as her involvement in the attack on respondent no.4 is concerned, there is no direct link tendered by the respondents except an imputation made in the report of the Fact Finding Inquiry Officer. We feel that there is adequate reason to inquire into the conduct of the applicant in detail. Before parting, we would also like to express our anguish at the sad state of

affairs of this Station under the All India Radio. The institution resembles the proverbial Tower of Babel rather than a well-run Government office. The report filed by the Head of Office at Annexure R-1 seeking “protection” from the applicant reflects very poorly on the state of affairs and on his own capacity to head an institution of repute.

15. After examining the case in detail and after considering the detailed arguments submitted by both sides, we are of the view that this is not a fit case to interfere with the action taken by respondent no.1. However, we direct that the Inquiry in pursuance to the impugned order at Annexure A-17 should be completed within a period of 60 days from today. The applicant should be given every opportunity to present her side and the latter will co-operate fully with the Inquiry scheduled to take place. The Original Application stands disposed of . No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

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- Annexure A1 - A true copy of FIR 482/2018 registered against V.Udaya Kumar by the 4th respondent (along with translation of the relevant statement in vernacular)
- Annexure A2 - A true copy of FIR 578/2018 registered against the 4th respondent on the complaint of Sri.V.Udayakumar
- Annexure A3 - A true copy of the order dated 7.6.2018 issued by the Deputy Director of Administration
- Annexure A4 - A true copy of Office Order No.TRC.SD.2/2017 dated 30.8.2018 issued by the 2nd respondent
- Annexure A5 - A true copy of the order No.15/32/2013/P1 dated 25.4.2013
- Annexure A6 - A true copy of the order dated 26.10.2018.
- Annexure A7 - A true copy of the order dated 26.10.2018
- Annexure A8 - A true copy of the request dated 29.10.2018 submitted by the applicant before the 2nd respondent
- Annexure A9 - A true copy of the notice dated 1.11.2018 issued by the ICC requiring the applicant to be present for the enquiry
- Annexure A10 - A true copy of the complaint dated 31.10.2018
- Annexure A11 - A true copy of the duty chart for the day 2.11.2018 evidencing the vindictive attitude of the 4th respondent
- Annexure A12 - A true copy of the representation dated 5.11.2018 submitted by the applicant to the Head of Programmes
- Annexure A13 - A true copy of the representation against the same on 9.11.2018.
- Annexure A14 - A true copy of the Order dated 30.10.2018 issued by the Additional Director, Bangalore
- Annexure A15 - A true copy of the Order issued by the 1st respondent
- Annexure A16 - A true copy of the discharge summary dated 10.11.2018

- Annexure A17 - True copy of the order dated 8.11.2018 issued by the 1st respondent
- Annexure R1 - Copy of the representation of the 3rd respondent made to the 2nd respondent vide Letter No.CHN-SD/Misc./P/2018/ dated 5.9.2018
- Annexure R2 - Copy of the Letter No.TRC.DE.3/2018 dated 29.8.2018 forwarding the representation of the 4th respondent
- Annexure R3 - Copy of Letter No.CBE-PH/2018 dated 5.9.2018 issued in this regard by Smt.K.Chitralega, Programme Head, AIR, Coimbatore
- Annexure R4 - Copy of the Inquiry Report submitted on 24.9.2018.
- Annexure A19 - True copy of the order dated 5.7.2016 issued by the then Head of Programmes
- Annexure A20 - A true copy of the order dated 16.2.2017 issued by Head of Programmes
- Annexure A21 - A true copy of order dated 3.7.2018 issued by the third respondent
- Annexure A22 - True copy of order dated 3.8.2018 issued by the third respondent
- Annexure A 23 - True copy of the statement given by K.Usha before the enquiry committee
- Annexure A 24 - True copy of the request made by V.Udayakumar on 17.9.2018 before the enquiry officer
- Annexure A 25 - True copy of the request dated 18.9.2018
- Annexure A 26 - True copy of the order dated 13.11.2018 issued by the third respondent
- Annexure A 27 and Annexure A 27(a): True copy of the Deshabhimani daily dated 10.11.2018 along with its English translation\
- Annexure A 28 and Annexure A 28(a): True copy of the Mathrubhoomi daily dated 12.11.2018 along with its English translation
- Annexure A 29 - True copy of the complaint dated 28.11.2018 submitted by the applicant before the ICC constituted under the Prohibition of Sexual Harassment Act. ///