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**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00132/2019

Thursday, this the 7th day of March, 2019

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER**

D.Pradeep Kumar, aged 57 years
S/o.K.Damodaran
Programme Executive, All India Radio
Manjeri – 676 122
Residing at Prayaga, Automobile Road
Palarivattom, Ernakulam – 682 025

...Applicant

(by Advocate: Mr.M.R.Hariraj)

v e r s u s

1. Prasar Bharati Broadcasting Corporation of India
represented by its Chief Executive Officer
Prasar Bharati House
Copernicus Marg, New Delhi – 110 001

2. Director General, All India Radio
Akashvani Bhawan, New Delhi-110 001

...Respondents

(By Advocate – Mr.N.Anilkumar,SCGSC)

This application having been heard on 7th March 2019, the Tribunal
on the same day delivered the following :

ORDER

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Original Application No.180/00417/2017 is filed Dr.V.Ramesh, Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvananthapuram against the order dated 20.5.2017 transferring him from CTCRI Thiruvananthapuram to Indian Institute of Water Management, Bhubaneswar. The relief sought in the Original Application are as follows:

1. Call for the entire records leading to the issuance of Annexure A6.
2. To set aside A6 in as much as the same relates to the applicant
3. To declare that the applicant is eligible to continue to be posted as Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvananthapuram, in the light of the facts brought out in A4 & A5
4. To direct the respondents to allow the applicant to continue as Principal Scientist (Soil Science), Indian Council of Agricultural Research, Central Tuber Crops Research Institute, Thiruvannthapuram in the light of A9.
5. Any further relief or orders as this Tribunal may deem fit and proper to meet the ends of justice.
6. Award the cost of these proceedings.

2. Applicant is presently working as Principal Scientist (Soil Science)

under the respondents. He has been posted at Thiruvananthapuram since 2006 October. Being a native of Nagercoil in Tamil Nadu, his mother tongue is Tamil. It is submitted in the Original Application that the applicant's daughter who was borne in the year 2001 is afflicted by Sub Normal Mental Growth and has speech impediments. The child is required to undergo speech and language intervention in her mother tongue for which Tamil environment is necessary for improving her communication. As per a certificate issued by Sri.Ramachandra Medical College and Research Institute at Chennai dated 3.5.2005 (Annexure A-1), the child's psychological evaluation revealed mild mental sub normality; she has been diagnosed to have “Delaye Speech and Language with Mild Mental Subnormality” for which she has undergone speech and language intervention. It is very essential that she continues to undergo speech and language intervention; It is suggested that she undergoes therapeutic intervention in her mother-tongue- Tamil environment which is conducive for her progress in communication.

It was with due consideration of the above fact that the applicant was allowed a transfer from Hyderabad to Thiruvananthapuram as per Annexure A-2 order dated 27.9.2006. Thus, the transfer was on extreme compassionate ground.

As per communication dated 8.11.2016, the first respondent had put the applicant on notice that he was at present accommodated against a non-sanctioned/non-existent post. He was informed that a committee had been formed by the President of ICAR to examine all the distortions in posting of

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Scientists vis-a-vis sanctioned/non-sanctioned posts and appropriate steps would follow on the basis of the evaluation undertaken by the committee. He was also reminded that the preferences given by the Scientists do not bestow any special right on them to continue at a particular Institute of his choice. He had responded to this communication explaining the compelling situation that needs his presence at the present station. He had also detailed the contribution he is making and also brought to the attention of the respondents the O.M issued by the Ministry of Personnel, Public Grievances & Pensions, Government of India dated 15.2.1991 (Annexure A-9) directing that an employed parent of a mentally retarded child should be given posting at a place of his/her choice.

The impugned order at Annexure A-6 transferring him to BuBaneswar has caused him irreparable loss and injury in view of the peculiar situation he is facing. He filed a representation before respondent no.1 as per Annexure A-7 on 22.5.2017. What was made to understand that he was likely to be relieved from the office of respondent no.2. However, the applicant has also attached a copy of the disability certificate issued by Senior Resident, Department of Psychiatry, KGMCH, Asaripallam certifying that the applicant's daughter suffers from Moderate Mental Retardation amounting to 60%.

Applicant was heard on 31.5.2017 and an interim order was issued not to relieve the applicant from his present station.

A reply statement has been filed on behalf of respondent no.2. It is

submitted that ICAR is an organisation with Institutions spread all over the country and CTCRI Thiruvananthapuram is an Institution based at Trivandrum fullfilling in important task entrusted to ICAR. Scientists in ICAR are expected to serve anywhere that they are called upon by the employer and in keeping with the training and expertse of serving Scientists the organisation has a policy for optimum utilisation of human resources. The council has been very considerate in his approach towards its employees and the case of Dr.V.Ramesh is an example. He was transferred from Hyderabad to CTCRI Thiruvananthapuram on the ground of personal difficulties associated with his child. He has now reamined at Trivandrum since 2006 onwards.

However, it is not in the interest of Organisation that an employee should be allowed to work indefinitely at one Station and is required to move in line with the operational requirement of the council. The degree of accommodation exhibited in the case can be seen from the fact that the applicant was allowed to work in a non-sanctioned post in order to eleviate his personal problems. The respondents are ready to consider further accommodation when the next cadre review takes place. However, until then it is not possible to retain the applicant at Thiruvananthapuram.

In a rejoinder filed, the applicant goes to some length to argue that there is a strong case for revising the cadre strength at Thiruvananthapuram, CTCRI and a proposal had been made for creation of 3 Soil Scientists. In the event that this granted the applicant could be accommodated easily there as at present there is only two Soil Scientists at CTCRI Thiruvananthapuram

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In the additional reply statement to the rejoinder filed

(ASHISH KALIA)
JUDICIAL MJEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

Annexure A-1 – True copy of the Office Memorandum No.7/11/2012-254 dated 4/4/2018

Annexure A-2 - True copy of the notice No.CLT/5(DDE)/2017-2018/93 dated 9/5/2018

Annexure A-3 - A true copy of the representation dated 18.5.2018

Annexure A-4 - True copy of the order No.F.No.A-17/01/2017-SI(A)/946 dated 16/11/2018

Annexure A-5 - A true copy of the representation dated 19/11/2018 submitted by the applicant

Annexure A-6 - A true copy of the representation dated 13.12.2018 submittd by the applicant.
