

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00129/2018

Date of Order: This, the 18th day of January 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Sri Tapash Chakraborty
Son of Shri Parimal Bikash Chakraborty
Upper Division Clerk
Doordarshan Kendra, Guwahati
R.G. Baruah Road, Guwahati
Post Office – Zoo Road, Pin – 781024.

...Applicant

By Advocates: Mr. A. Ahmed, Ms. R.R. Rajkumari,
Ms. D. Goswami & Mr. N. Barman

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Information & Broadcasting
A Wing, Sashtri Bhawan, New Delhi – 110115.
2. The Director General Doordarshan
Doordarshan Bhawan
Copernicus Marg, New Delhi – 110001.
3. The Additional Director General
(P&A), North East Region
Doordarshan Kendra
R.G. Baruah Road, Guwahati – 781024.

4. The Deputy Director General
(Engineering)
All India Radio, Chandmari
Guwahati, Pin – 781003.

...Respondents

By Advocate: Mr. R. Hazarika, Addl. CGSC

O R D E R (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

By this O.A., applicant makes a prayer for setting aside the impugned transfer order No. AIR/GHY/24(2)/2017-8/1350 dated 23.03.2018 so far the applicant is concerned.

2. Learned counsel for the applicant at the outset submits that at the time of filing the instant O.A., applicant was 57 years old and by now he has already completed 58 years. Since the applicant has left service only for two years, as such, he is entitled to retain at his present place of posting till retirement in view of the decision rendered by Hon'ble High Court in the case of **Union of India Vs. Dr. Umesh Kumar Mishra WA No. (SH) 17/12** as well as **Narayan Choudhury Vs. State of Tripura & Ors. WP(C) No. 239/1999**.

3. Heard Mr. Adil Ahmed, learned counsel for the applicant and Mr. R. Hazarika, learned Addl. CGSC for the respondents. Learned counsel for the applicant has drawn our attention to the department's own guideline No. 502/10/81-TV dated 10.09.1982 issued on the subject of 'Transfer Policy' where para xiii says as under:

“xiii Members of staff who are within three years of reaching the age of superannuation will, if post at their home town, not be shifted there from. It is becomes necessary to post them elsewhere, efforts will be made to shift them to or near their home towns to the extent possible.”

4. No doubt, the department is the best suited to judge as to the existence of exigencies of such transfer who should be transferred where. At the same time, it should not be given by that the power of judicial review could very well be exercised by a court of law if such transfer indicated hardship factor in compliance with such a transfer order. Moreover, it is the policy of the Govt. of India that in case of an officer due to superannuation, posting to station of choice shall be given due weightage. There is an objective based on consideration of welfare behind such provision in the transfer policy as it would enable a person about to retire after a long and devoted

service to make arrangements for settling down thereafter with his family, acquire a house if not already done and to make necessary arrangement for his superannuated life. In **Union of India Vs. Dr. Umesh Kumar Mishra WA No. (SH) 17/12**, Hon'ble Gauhati High Court has held that – “Fairness requires that if a policy has been laid down, the same may be deviated from only if there is any reason to do so. If no reason is forthcoming, the exercise of power of transfer in violation of a laid down policy may be held to be arbitrary.”

5. In the present case, we have noted that, applicant will retire in January 2021. Only about 2 years left of his service. In **Narayan Choudhury Vs. State of Tripura & Ors. WP(C) No. 239/1999** rendered in **(2000) 1 GLR 519** where the Hon'ble Gauhati High Court of Agartala Bench has held that – “The petitioner is retiring towards the end of 2000 and he has to serve hardly one and half years, no practical purpose will be served by asking the writ petitioner to proceed to his place of posting at Gomit just for a period of 5/6 months”.

The present case is squarely covered with the above case of **Narayan Choudhury Vs. State of Tripura** (supra).

6. By taking into consideration the entire conspectus of the case as well as ratio laid down by the Hon'ble Gauhati High Court mentioned above, we direct the respondent authority to allow the applicant to continue in his place at Guwahati till his date of retirement i.e. 31.01.2021. Consequently, impugned transfer order No. AIR/GHY.24(2)/2017-S dated 23.03.2018 is hereby set aside so far the applicant is concerned.

7. O.A. stands disposed of accordingly. There will be no order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)