

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA 050/00048/2016**

Order dated: 01.08.2019

**CORAM**

HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER [J]  
HON'BLE MR. DINESH SHARMA, MEMBER[A]

1. Brajesh Kumar, S/O Sri Bindeshwari Prasad Singh, R/O village-Marar, P.O.-Marar, P.S.- Maurkahi, District-Khagaria.

..... Applicant.

**By advocate: Sri S.K. Bariar.**

Verses

1. The Union of India through the Secretary, Ministry of Information and Broadcasting, Government of India, 'A' Wing, Shastri Bhawan, New Delhi.
2. The Chief Executive Officer, Prasar Bharti Secretariat, 2<sup>nd</sup> Floor, PTI Building, Sansad Marg, New Delhi-110001.
3. The Director General, AIR, Akashwani Bhawan, Parliament Street, New Delhi.
4. The Deputy Director of Administration (E), All India Radio, Akashwani Bhawan, Parliament Street, New Delhi-110001.
5. The Additional Director General (Engineering), AIR, Akashwani Bhawan, 4<sup>th</sup> floor, Eden Gardens, Kolkata-700001.
6. Sri P.K. Thakur, Director (E), All India Radio, Patna.

..... Respondents.

**By advocate: Sri H.P. Singh.**

**ORDER [ORAL]**

**Per Jayesh V. Bhaieravia /M (J):-** The instant OA, the applicant has prayed for quashing and setting aside the impugned order dated 03.07.2015 [Annexure-A/6] passed by the respondents, whereby he has been transferred from AIR, Patna to AIR, Bhagalpur and the order dated 14.12.2015 [Annexure-A/19] whereby his representation dated 09.11.2015 has not been acceded to.

2. The brief facts of the case of the applicant are as below:-

(i) This is second round of litigation. The applicant had earlier approached this Tribunal through OA No. 540/2015 against his transfer order. The said OA was disposed of vide order dated 30.10.2015 [Annexure-A/16].

(ii) The applicant was initially appointed as Assistant Station Engineer and joined at AIR, Bhagalpur on 04.01.1999. Thereafter, he was promoted to the post of Dy. Director (E) on 06.10.2013. It is further stated that as per the transfer policy of the Ministry of Information and Broadcasting as well as the Prasar Bharti, an employee should serve a difficult station in the service career. Thus he was transferred to the difficult station, i.e. AIR Tezpur under the North East Zone. (Annexure-A/1 and A/2). It is relevant to point out here that as per transfer policy of Prasar Bharati, a provision has been made for the three choice posting options after serving the difficult station, and therefore, the applicant had given his choice options for posting at Patna. Accordingly, after serving at the difficult station, i.e. AIR Tezpur, the respondents had posted the applicant at AIR, Patna vide order dated, 18.06.2013 (Annexure-A/3) and applicant assumed the charge at AIR, Patna on 28.06.2013 (Annexure-A/5).

(iii) It is submitted that all of a sudden, the applicant has been transferred from AIR, Patna to AIR, Bhagalpur vide

Order dated 03.07.2015, issued under the signature of Dy. Director of Administration (E), AIR, New Delhi (Annexure-A/6). The applicant filed a representation dated 03.07.2015 for cancellation of his transfer order on the ground that he has not completed the normal four years tenure at AIR, his daughter is studying in Class-VII in DPS, Patna and his wife is suffering from neuro problem and is under treatment of Neuro Surgeon at Patna (Annexure-A/7). It is relevant here to point out that the applicant had filed OA 540/2015 before the Tribunal against the transfer order, which was disposed of by this Tribunal vide order dated 30.10.2015 with following directions:-

*"6. We are familiar with the cases cited by the parties. Having carefully considered the matter, we find that the official respondents have not explicitly shown the administrative grounds for which this premature transfer has been done. Our view after hearing the three parties, i.e. applicant, official respondents and private respondent no.6 is that the official respondents have taken this as a case of competing equity, and while satisfying one party, i.e. the respondent no.6 they seem to have lost sight of the fact that another person, ie. The applicant will be adversely affected.*

*7. In conclusion, in our view the authorities need to give a consideration to the representation of the applicant within two months of receipt of this order in the light of our observations above. But the applicant should first comply with the transfer order and then submit his representation. Accordingly, the OA is disposed of. No order as to costs."*

In the light of Tribunal's order dated, 30.10.2015, the applicant joined at AIR, Bhagalpur, i.e. the transferred place on 03.11.2015 (Annexure-A/17) and, thereafter he made a representation dated 09.11.2015 (Annexure-A/18) for cancellation of his transfer order dated 03.07.2015 but his representation was rejected by the respondents, vide Order dated 14.12.2015 (Annexure-A/19) wherein it is

stated that applicant's transfer was done in public interest on the recommendation of the Inquiry Committee constituted in a complaint case against him. As per the applicant, it is totally wrong allegation levelled against him. It is contended that the applicant has shown excessive interest in a specific place at AIR, Patna which is totally uncalled is not correct.

(iv) It is also submitted by the applicant that his transfer was neither based on the policy decision dated 13.08.2013 nor on the basis of committee constituted for transfer in pursuance of the Hon'ble Supreme Court Order read with Memorandum dated 09.01.2014 issued by the DoP&T, New Delhi. The applicant submitted that his transfer is against the transfer policy dated 14.07.1981 of the Ministry of Information and Broadcasting, New Delhi and Para-V of transfer policy dated 21.05.2010 of the Prasar Bharti, New Delhi since he had not completed his normal tenure of four years at AIR, Patna after serving the difficult station. He has served only 24 months at AIR, Patna and his transfer was premature. His transfer was done only to accommodate the private respondent no. 6, namely, Mr. P.K. Thakur, at AIR, Patna.

(v) It is further stated that respondents have rejected his representation dated 09.11.2015, ignoring the observations/directions made in Order dated 30.10.2015 in

OA 540/2015 passed by this Tribunal and issued a cryptic and non-speaking order dated 14.12.2015. Therefore, the applicant has prayed for quashing and setting aside the impugned order dated 03.07.2015 and order dated 14.12.2015.

3. The respondents have filed their written statement on 13.07.2016 wherein it is submitted that the representation of the applicant dated 09.11.2015 for cancellation of his transfer order dated 03.07.2015 was acceded to by the competent authority and rejected the same, vide order dated 14.12.2015. In compliance of Tribunal's order dated 30.10.2015 in OA 540/2015, the respondents have considered the representation of the applicant and the same was rejected vide order dated 14.12.2015 stating therein that the applicant has been transferred on public interest. The respondents have placed reliance on the order dated 07.04.2015 in CWJC No. 4378/2015 passed by Hon'ble High Court. (Annexure-R/1). It is also stated that the almost all issues/points raised in this OA, have already been taken into consideration by this Tribunal in its earlier order dated 30.10.2015 passed in OA 540/2015 and after considering the same, the respondents have rejected the representation of the applicant and passed order dated 14.12.2015. The applicant's claim that the said transfer was done only to accommodate private respondent no.6 is wholly incorrect and baseless. It is also stated that the applicant has

already joined at AIR, Bhagalpur and the old session has already started from April 2016, therefore, this OA may be dismissed.

4. The applicant has filed rejoinder on 14.09.2019 wherein he has reiterated his submissions which he has stated in the OA. However, additionally he has stated that WS filed by private respondent no.6 is illegal and arbitrary. It is further stated that he has got information under RTI regarding his premature transfer, wherein the department has given information pursuant to his application dated 27.07.2015, in which it is evidently clear from the noting dated 02.07.2015 that he was transferred to accommodate Sri P.K. Thakur (private respondent no.6 herein) without any proposal and recommendation by the Engineer-in-Chief (AIR) who is the only recommending authority for transfer in the cadre of engineering officials as per law. Therefore, his transfer was done only to accommodate private respondent no.6.

5. The respondents have filed their reply to the rejoinder filed by the applicant wherein it is stated as below:-

(i) It is stated that Shri P.K. Thakur, i.e. private respondent no.6, is a senior officer under the same organization posted at AIR, Patna and he has been authorized to defend the case of behalf of all the respondents.

(ii) It is further stated that the applicant has been transferred from AIR, Patna to AIR, Bhagalpur due to administrative exigency.

(iii) It is further stated that the transfer of the applicant was done in view of the report dated 25.02.2015 (Annexure-R/2) of the fact finding team who held a preliminary inquiry against the applicant and Shri P.K. Thakur was posted in AIR, Patna, only to fill up a vital senior post at capital station of a state, where election process was going on. It is stated that Prasara Bharati constituted the Committee for transfer vide order dated 16.07.2015 (which was revised vide order dated 24.08.2015) (Annexure-R/3 and R/4). The transfer order of the applicant was issued with the approval of the competent authority on 03.07.2015, prior to the formation of the transfer committee. It is further stated that complaint against the applicant is under investigation and ADG-(P) (ER), AIR, Kolkata has furnished a fact finding report to Vigilance, Section DG, AIR, vide their letter dated 25.11.2014 (Annexure-R/2 to WS).

6. We have heard the parties and perused the records.

7. The Tribunal has noticed that the applicant has been transferred in public interest purely on administrative

exigency. It is further noticed that earlier the applicant had filed OA 540/2015 before this Tribunal against the transfer order, which was disposed of by this Tribunal, vide order dated 30.10.2015 with a direction upon the authorities to give a consideration to the representation of the applicant within two months of receipt of this order in the light of our observations made. In the light of order passed by the Tribunal, the applicant joined at AIR, Bhagalpur, i.e. the transferred place on 03.11.2015 (Annexure-A/17) and, thereafter he made a representation dated 09.11.2015 (Annexure-A/18) for cancellation of his transfer order dated 03.07.2015 but his representation has not been acceded to by the respondents vide order dated 14.12.2015 [Annexure-A/19.

8. In the case of Shilpi Bose (Mrs.) & Ors. v. State of Bihar & Ors.1, this Court held :

*"4. In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."*



*In N.K. Singh v. Union of India & Ors.*<sup>2</sup>, this Court reiterated that the scope of judicial review in matters of transfer of a Government Servant to an equivalent post without adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides or violation of any specific provision.

9. In view of the aforesaid discussions made hereinabove, we do not find any infirmity in the impugned order. The OA is accordingly dismissed. No costs.

Sd/-

[Dinesh Sharma]M[A]

BP/

Sd/-

[Jayesh V. Bhairavia ]/M[J]