

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2102/2003
&
RA-196/2004

New Delhi this the 17th day of February, 2005.

Hon'ble Sh. V.K. Majotra, Vice-Chairman(A)
Hon'ble Sh. Shanker Raju, Member(J)

1. Programme Staff Welfare Association of
All India Radio & Doordarshan (Regd.)
Through its General Secretary Sh. A.N. Rai
11, Annexe, Broadcasting House,
All India Radio, Sansad Marg,
New Delhi-1.

2. Sh. Pramod Mehta,
Programme Executive,
All India Radio,
Sansad Marg, New Delhi.

3. Sh. S.C. Bhatia,
Programme Officer,
D.T.P.E.S. All India Radio,
Akashwani Bhawan, New Delhi.

Applicants

(through Sh. M.K. Bhardwaj, Advocate)

Versus

1. Union of India through
its Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi-1.

2. Prasar Bharti through
its Chief Executive Officer,
Broadcasting Corporation of India,
PTI Building, Sansad Marg,
New Delhi-1.

3. Director General (Doordarshan),
Mandi House,
New Delhi-1.

4. Smt. V.L. Sinha,
Dy. Director General (Programme)
All India Radio, Akashwani Bhawan,
New Delhi-1.

5. Sh. Ravi Naskar,
Dealing Asstt. (Transfer & Posting),
S-1-B Section, All India Radio,
Room No. 230, Akashwani Bhawan,
New Delhi-1.

6. Sh. M.K. Pandey,
 Section Officer,
 Prasar Bharti,
 Broadcasting Corporation of India,
 PTI Building, Sansad Marg,
 New Delhi-1.

..... Respondents

(through Sh. J.B. Mudgil, Advocate)

Order (Oral)
 Hon'ble Shri Shanker Radju, Member(J)

We dispose of RA and OA by a common order to avoid multiplicity.

2. RA filed by the applicants is directed against an order passed by the Tribunal on 11.5.2004 in OA-2102/2003.
3. Applicants' counsel alleges an error apparent on the face of record in respect of the following findings:-

"The respondents are duty bound to consider the claims of the applicants in the light of the judgment of the Hon'ble Supreme Court in aforesaid case. However, the respondents shall have also to take into consideration other aspects like all India transfer liabilities of the applicants, needs of the organization and promotional prospects of the applicants. In the absence of any particular grievance, specifically pointed out by the applicants, no specific direction can be issued at this stage to the respondents as claimed. However, the respondents will keep the decision of the Hon'ble Supreme Court as well as their administrative requirements and conditions of service of the applicants before making any transfer and deployment of the members of applicant No.1"

4. In this view, it is stated that whereas in the OA, the Association and two other affected persons have relied upon the decision of the Apex Court in CWP-285/1989 decided on 25.8.1989 (S.D. Sastri Vs. U.O.I & Ors) whereby, as a principle, it is laid down that while transferring the staff, it must not be transferred where there is no Hindi programme and they should be placed in Hindi Section.
5. In the above conspectus, it is stated that the grievance of the applicants was directed against the inaction of the respondents whereby despite decision of the Apex Court the respondents were directed not to transfer the staff from Transmission Section to Music Section and also posting should not be exploited. Artists should be posted in their field only, which would give them opportunity to

gain experience in the above field. In this view of the matter, it is prayed that as a matter of policy in view of S.D. Sastri's case (supra) Programme Executives, who have been selected for specialized Language/discipline programme should only be transferred, posted and allocated the work of their particular field of selection; in reference of applicant No.2 to post him in two disciplines i.e. light music and folk music (Haryanvi) as per his selection and applicant No.3 to Hindi spoken words programme.

6. In the context of the above, it is stated that though there is a specific and particular grievance, the observation of the Tribunal that no particular grievance has been raised, is an error apparent on the face of record.

7. Sh. J.B. Mudgil, learned counsel of respondents has vehemently opposed the above contentions.

8. It is trite law in view of decision of the Apex Court in Sunit Singh Vs. U.O.I. (1997(10)SCC 592) that if a mistake is committed on facts, the Tribunal is duty bound to correct the same with grace, by way of review. As there is an error apparent on the face of record, as despite a specific grievance raised by the applicants a contrary finding has been recorded, we recall our earlier orders and allow RA-196/2004.

9. On hearing both the counsel in OA, we are of the considered view that in S.D. Sastri's case, the following observations have been made:-

"After hearing the petitioners who appeared before us in person and the learned counsel appearing on behalf of the respondents we direct that the petitioner shall not be transferred to a place where there is no Hindi programme and that the petitioner should also be placed in Hindi Section. The respondent will also consider the case of the petitioner that he should be given co-ordination work according to the Seniority. The Writ Petition is disposed of as above. There will be no order as to costs."

10. The Programme Executives recruited by the UPSC are in the several programmes in Language fields and disciplines. The requirement of job of these Executives is with a specialized Language of their particular field. Accordingly, as per Sastri's case (supra), they are to be deputed on transfer and posting to their respective fields as by not allocating them to

their particular field would deprive them as they are specialized in their particular fields.

11. Because of this posting, the Programme Officers are to work abruptly and this deprives them to perform good in their field.

12. It is trite law that in the matter of posting/transfer, it is at the discretion of the Government, but it cannot be mala fide or against the law.

13. In the light of S.D. Sastri's case (supra), we dispose of this OA with a direction to the respondents that while transferring the Programme Executives and other staff of the Association, they should be posted and transferred and allocated the work of their particular field of section.

14. In respect of Respondents No. 2 & 3, they should be posted in accordance with their fields, on the basis of which they were selected by UPSC. With this, OA stands disposed of. No costs.

S. Raju

(Shanker Raju)
Member(J)

V.K. Majotra

(V.K. Majotra)
Vice-Chairman(A) 17.2.05

Nv/