

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2116/2001

New Delhi, dated this the 12<sup>th</sup> day of October, 2001

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

HON'BLE DR.A.VEDAVALLI MEMBER (J)

N.K.Sharma, SDE (Building),  
MTNL Office at ISBT,  
Delhi-6

2. Balbir Singh Dagar, SDOP (OC),  
MTNL,  
Alipur,  
Delhi-36

.....Applicants.

(By Advocate: Shri R.Venkatramani, Sr. Counsel)

Versus

1. Union of India,  
through its  
Secretary (Dept of Telecommunications),  
Sanchar Bhawan,  
20, Ashok Road,  
New Delhi

2. Mahanagar Telephone Nigam Ltd.,  
through its  
Chief General Manager,  
K.L.Bhawan,  
Janpath,  
New Delhi-1

....Respondents.

(By Shri K.K.Sood, 1d. ASG with Sh. P.H.Ramchandani  
and Shri A.K.Bhardwaj)

ORDER

S.R.Adige, VC (A):

This OA was heard along with OA No.1252/2000.  
However as that OA concerns ITS Group 'A' Officers,  
while the present OA has been filed by ITS Group 'B'  
officers, orders in this OA are being passed separately.

2. Applicants impugn respondents' order dated  
23.7.2001 (Annexure-A-1) transferring them from MTNL  
to BSNL.

(6)

3. Their case is that in terms of official respondents' circular dated 8.5.2000 they had opted for permanent absorption in MTNL, after submitting their technical resignation from DOT. They contend that DOT is not competent to transfer them from MTNL to BSNL at this stage and this transfer order has been issued out of malafide because applicants are office bearers of MTNL Officers' Association.

4. No materials have been shown by applicants to establish that their options for permanent absorption in MTNL have been finally accepted. Mere submission of option forms for permanent absorption in MTNL does not automatically imply that applicants cease to be employees of DOT and have become employees of MTNL unless the same is finally accepted. Indeed applicants themselves aver in para 4.4 of the OA that the scheme for permanent absorption have not yet been finalised.

5. We also find that applicants have rushed to the Tribunal without even filing a representation to the appropriate authorities in regard to their grievance, which they should have done in the first instance in the light of the Hon'ble Supreme Court's ruling in GSEB Vs. ARS Poshani AIR 1989 SC 1433.

6. Under the circumstances this OA is disposed of holding that if applicants are aggrieved by the impugned transfer order, they should in the first instance file a representation to respondents within 3 weeks from today, which respondents should dispose of by a reasoned order under intimation to applicants

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(A)

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within 6 weeks of its receipt . While doing so respondents should apply their mind as to whether it is necessary in public interest to transfer applicants to BSNL when they are keen for permanent absorption in MTNL.

7. The OA is disposed of in terms of para 6 above.  
No costs.

A.Vedavalli

( DR.A.VEDAVALLI )  
MEMBER (J)

S.R.Adige

( S.R.ADIGE )  
VICE CHAIRMAN (A).

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