

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./~~P.A.~~ No. 2224 of 1995 Decided on: 27/9/96

Shri Mahipal SinghApplicant(s)

(By Shri C.B. Pillai Advocate)

Versus

U.O.I. & OthersRespondent(s)


(By Shri V.K. Rao Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?


(K. MUTHUKUMAR)
MEMEBR (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2224 of 1995

New Delhi this the ^{2nd} day of July, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Mahipal Singh
S/o Shri Sher Singh
R/o 5/155 Mandoli Extension,
Nand Nagri,
Delhi-110 093.

...Applicant

By Advocate Shri C.B. Pillai

Versus

1. Union of India
through its Secretary to the Government
of India,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi.
2. The Chief General Manager,
Mahanagar Telephone Nigam Limited,
Khurshid Lal Bhawan,
New Delhi-110 001.
3. The Divisional Engineer,
Office of the Divisional Engineer(Phones),
E-10-B, D-I, Laxmi Nagar
Telephone Exchange,
New Delhi.

..Respondents

By Advocate Shri V.K. Rao

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

This application filed under Section 19 of the Administrative Tribunals Act, 1985 is finally heard at the admission stage itself and is disposed of by the following order.

2. The applicant is a Technician under the respondents and by the impugned order dated 4.10.1994, he was transferred under para 37 of the P&T Manual Volume IV in the interest

of service and was asked to report to the Chief General Manager, ^{Kerala} Telecom Circle. The applicant is aggrieved that this transfer has not been made in public interest but has been done in an arbitrary manner and has, therefore, approached this Tribunal with a prayer for quashing and setting aside the impugned order and directing the respondents not to transfer the applicant to any place other than the neighbouring states of Delhi and to pay full pay and allowances to the applicant from 4.10.94 onwards. An ~~ad~~ interim stay was passed till the filing of the reply. The respondents filed their reply on 14.2.1996 and the parties were finally heard.

3. The applicant's main grievance is that being a low paid employee, his transfer to such far off place, i.e., Calicut would cause him considerable financial difficulties and as the criminal proceedings were pending against him, he should not have been transferred out of the jurisdiction of the disciplinary authority which was conducting the departmental proceedings and, therefore, the transfer of the applicant to such far off place would cause difficulties in arranging the proper defence. Besides, the applicant contends that he has certain personal difficulties as his mother is stated to be ill, so also his wife. He also contends that the transfer has been made in the inter school session period which is not in consonance

with the provisions of the P&T Manual Volume IV which provides that, as far as possible transfers should generally be made in April of each year so that the education of the school going children will not be affected. Another grievance of the applicant is that he does not have sufficient knowledge of Malyalam, which is essential for working at Calicut and children will also be at serious disadvantage for prosecuting their studies. On these grounds, the applicant has approached the Tribunal for getting the transfer order quashed.

4. In reply, the respondents have stated that the transfer has been made strictly in the interest of public service and in accordance with the provisions of para 37 of the P&T Manual Volume IV relating to transfer and postings of officials and has been done in pursuance of administrative exigencies and to maintain the efficient and the honest administration. The respondents have stated that the applicant was under suspension with effect from 24.3.1994 pending departmental enquiry against him and the applicant while working at M.T.N.L. was involved in a racket of unmetred international calls with the result that the department suffered substantial financial loss. Although suspension was revoked pending conclusion of the criminal proceedings against him as also departmental enquiry, the department considered ^{it} in public interest

not to continue the official in Delhi and accordingly, he was relieved from M.T.N.L. and was transferred to Calicut. In terms of the aforesaid provisions of the P&T Manual all P&T officials are liable for All India transfer liability and transfer is an incidence of service. In this particular case, the applicant was booked under certain provisions of the Prevention of Corruption Act and also under Section 25 of the Telegraph Act and in order to safeguard the department against financial losses that had been caused in the racket in which the applicant was involved, it was considered necessary in the fitness of the things to transfer the applicant out of Delhi. The applicant's contention of domestic problems are clearly after-thought as he has not raised these issues before the competent authority. There is no personal mala fide or arbitrariness in such transfer inasmuch as the transfers are made in order to maintain efficiency in public service and, therefore, there had been no violation of any rules or regulations in this transfer which has been ordered by the competent authority. In view of these facts, the respondents have strongly contested the application and have avered that this application is misconceived and has no merit and is liable to be dismissed.

5. I have heard the learned counsel for the parties and have also perused the record.

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The departmental record leading to the transfer has also been perused.

6. It is an admitted position that the applicant and certain other officials were arrested by the C.B.I. in the raids conducted by the C.B.I. on 16.2.1994. Although the applicant was originally suspended consequent on such arrest, the suspension was subsequently revoked. It was stated that the investigations revealed that as a result of tampering of telephone metres in respect of certain telephone numbers, there was tampering of telephone lines and a racket of providing cheap-rates international calls was operated by private persons in connivance with the departmental employees and among whom, the applicant was also found to be one. It was suspected by the respondents that the employees including the applicant have vast links with the various persons involved in this illegal activities and it was found that the present continuance of the applicant in Delhi would not be desirable in the larger interest of the organisation and also in the interest of maintaining efficient public service. There is no material on record to suggest that the departmental proceedings had already been initiated against the applicant, although it may be under contemplation. However, the applicant's liability for All India transfer is not in dispute. Further, in the light of the fact that this transfer has been made

although in connection with the alleged racket involving the applicant, it cannot be said that transfer in such circumstances will not be in public interest or in the interest of public service. The applicant has not alleged personal mala fide against any particular officer under the respondents. In fact, it seems that the transfer is in pursuance of the policy of the department to transfer these officials involved in the racket in order to protect the larger interest of the administration and in the circumstances, it will not be appropriate for the Courts or Tribunals to interfere in such matters.

7. As regards the grievance of the applicant that he will be handicapped in a place where the language spoken is Malyalam and that he has not adequate knowledge of Malyalam, it may be seen that Hindi is an all India language and it may be stated that the Hindi is an official language of the nation and for the purpose of his functioning as a Technician in Kerala Circle, his knowledge of Hindi and English would be quite enough even though he may not have knowledge of Malyalam and the level of Hindi speaking in that region is also known to be quite wide-spread and, therefore, in the normal circumstances, should not cause any serious disability. It will not be appropriate for the Tribunals in such cases to interfere with the orders of transfer

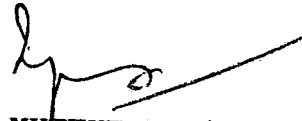
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except on grounds of violation of rules or on grounds of mala fide.

8. As observed above, no violation of rules or mala fide has been shown in this case. Accordingly, this application has no merit and is, therefore, dismissed.

There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

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