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CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

OA.No.370/96

Dated this the 26th Day of February, 1996.

Hon'ble Shri B.K. Singh, Member(A)
Hon'ble Dr. A.Vedavalli, Member(J)

R.K. Chaturvedi
S/o Shri S.L. Chaturvedi,
850, Mohalla Chaubachcha,
Mathura.

...Applicant

By Applicant: Shri B.B. Chaturvedi.

versus

1. Union of India through
Secretary, Department of
Telecommunication, Sanchar Bhavan,
New Delhi.
2. The Chief General Manager, Telecom,
U.P. Circle West,
Patel Nagar, Dehradun(U.P.) ...Respondents

By Advocate: None.

O R D E R (Oral)
(By Hon'ble Member Shri B.K. Singh)

Heard the learned counsel for the applicant and perused the records of the case. The Hon'ble Vice Chairman(J) has passed an order dated 16.2.96 for retention of this case in the Principal Bench. No order has been impugned here. The admitted facts are that the applicant, aggrieved by the action of the respondents in transferring him frequently from one station to the other, approached the Allahabad Bench of the Central Administrative Tribunal by filing OA.1032/92. Subsequently, the applicant was transferred from the present station to another station on 17.4.95 which was modified later on 18.4.95. This order of the respondents was stayed by an order of the Central Administrative Tribunal, Allahabad Bench which reads as follows:-

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"The operation of the order dated 17.4.95 and its modification by order dated 18.4.95 annexures A-4 and A-5 shall remain stayed unless in pursuance to the said orders the applicant has already not handed over charge at J.T.O./O-II Mathura."

2. It is also admitted by the learned counsel for the applicant that he filed CP.85/95 against respondent No.4 and this CP, for violation of the interlocutory order passed by that Bench is pending before Allahabad Bench of the Tribunal and is directed against respondent No.4. He was paid salary for the months of April and May but from June onwards, the salary has been stopped.

3. The interlocutory order passed by the Allahabad Bench will be deemed to be in operation, if the applicant has not made over charge as JTO and the respondents will be under an obligation to make payment of salary. The learned counsel further states that the applicant has been attending to his duties. The only thing that is not clear is whether he has made over charge or not, before any interlocutory order was passed by the Allahabad Bench of the Tribunal. This is a matter pending adjudication before Allahabad Bench of the Tribunal. The validity of the transfer orders, the interlocutory order passed regarding the transfer orders dated 17.4.95 and 18.4.95 are all matters of details and since the CP.85/95 has also been filed against respondent No.4 alleging contempt of court against him, it would be appropriate that the matter is heard and decided by the Allahabad Bench of the Tribunal. Salary also will have to be paid if the applicant has not made over charge, since he will be deemed to be in office and therefore, the respondents would be under obligation

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to pay him the salary whether they take work from him or not. The C.P. is also to the same effect that the orders have been wilfully defied. The question of interlocutory orders subsisting in favour of the applicants is subject to his not having made one charge. Thus the entire matter is still open for adjudication before the same Bench. A part of the O.A. cannot be adjudicated by the Principal Bench as to why the salary for the month of June has been stopped. If it is proved that the applicant has not made over charge and that he was still continuing he would be deemed to be in office and would be eligible to draw the salary from the respondents. This question, therefore, that salary from June onwards has been stopped is dependent on a reply with the order, whether he made over charge or whether he is still in office and whether he has been prevented from joining his duties. This application on the same subject is not maintainable. The OA and the CP will have to be adjudicated upon by the Allahabad Bench of the Tribunal which is already seized of the matter.

4. With these observations, the OA is dismissed as not maintainable at the admission stage itself.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

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(B.R. Singh)
Member(A)

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