

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1496 of 1997

New Delhi, this the 16th day of September, 1997.

Hon'ble Mr. N. Sahu, Member(A)

Mushafir Ram  
S/o Shri Ram Dhani Ram  
R/o S-163, Pandav Nagar,  
Opp. Mother Dairy,  
Delhi- 110 092

...Applicant

(By Advocate : Sh. A.K. Sinha)

Versus

1. P.K. Panigrahi  
S.E. (Elect)  
MTNL, 9th Floor,  
Chanderlok Building  
Janpath,  
New Delhi-110 001

2. Chief Engineer (BW)  
MTNL, 9th Floor,  
Chanderlok Building,  
Janpath,  
New Delhi- 110 001

...Respondents

(By Advocate : None)

ORDER (Oral)

By Mr. N. Sahu, Member(A) -

Heard Shri A.K. Sinha, learned counsel for the applicant. He says that he has substituted himself for Shri Himanshu Shekher and he will file his power of attorney in the course of the day. He shall do so.

2. This OA is filed for quashing the order No. SE(E)/MTNL/Genl./8/97-98 dated 30.05.1997. This order reads as under:

*transcript*

"Following redistribution of the electrical works is hereby ordered in the interest of service with immediate effect until further orders:-----"

At serial No.1 the applicant along with the two J.Es were placed under one Mr. Gulshan Roy, Executive Engineer (Planning). The applicant was formerly working in the Field as an Assistant Executive Engineer. The learned counsel says that under the garb of redistribution, they have transferred him from the Field to Planning. He, secondly, states that there is no sanctioned post either for the Executive Engineer or for the applicant. He seeks cancellation of the impugned order.

3. Reply filed questions maintainability for want of jurisdiction. MTNL is not notified under Section 14(2) of the Administrative Tribunals Act, 1985. The earlier judgment of the Tribunal is sought to be distinguished on the ground that the jurisdiction of the Tribunal was not per se questioned or argued. An important point has been made that the relief sought against the MTNL and Union of India is not even a party. Thirdly, it is stated that the applicant is challenging the impugned order by relying upon the practice prevailing in the Department of

6

-3-

Telecommunications. The applicant is on deputation with MTNL and as long as he works in the MTNL he has to be governed by practice/functioning of the MTNL.

4. As Union of India has not been impleaded as a party and as the applicant has mentioned the name of one Shri P. K. Panigrahi, S.E. (Elect.), this OA cannot be entertained in view of the Apex Court decision in Ranjeet Mal vs. General Manager, Northern Railway, New Delhi - AIR 1977 SC 1701, para 7 of the same is extracted as under:

"The Union of India represents the Railway Administration. The Union carries administration through different servants. These servants all represent the Union in regard to activities whether in the matter of appointment or in the matter of removal. It cannot be denied that any order which will be passed on an application under Article 226 which will have the effect of setting aside the removal will fasten liability on the Union of India and not on any servant of the Union. Therefore, from all points of view, the Union of India was rightly held by the High Court to be a necessary party. The petition was rightly rejected by the High Court."

*[Handwritten signature]*

On the above ground this petition deserves to be rejected. Further in my view, the OA is frivolous. There is no substantive right to an employee to question an order of transfer. In this case the transfer is in the same station from one seat to another seat. It is mere redistribution of work. The applicant was working in the field earlier: he wants this to be restored. He has no right to protest if he is placed under some other Executive Engineer. There is no substantive right that has been infringed. Several decisions of the Apex Court have settled the law on transfer. Transfer is an incident of service. There is no vested right of an employee to stay at a place or ~~his~~ seat. As long as the transfer is not malafide or does not violate a particular rule or guideline it cannot be questioned. These are not the grounds in this Application. The applicant states that there is no sanctioned post. This is not yet tested but granting that it is so, as long as the applicant is paid his salary, he has to work on a designated seat ordered by the competent authority. I find that technically this OA is invalid. On merits there is no substance in this OA.

OA is dismissed at the admission stage.

*Narayanaswamy*  
(N. Sahu)  
Member(A)

/Kant/