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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH  
NEW DELHI

RP No.46/91  
in  
OA No.324/91

Date of Order: 19.3.91 .

Kuldip Singh

...Applicant

Vs.

1. Union of India  
Through the Chief General Manager  
Maha Nagar Telephone Nigam Ltd  
Khurshid Lal Bhawan  
New Delhi-110050
2. The General Manager (PM) South  
Maha Nagar Telephone Nigam Ltd  
Eastern Court Building  
New Delhi
3. Deputy General Manager  
Maha Nagar Telephone Nigam Ltd.,  
30-31-A Jeevan Vikas Building  
New Delhi-110002.

...Respondents

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Counsel for the Applicant : Shri P.S.Mahendru

Counsel for the Respondents :

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CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN (A)

THE HON'BLE JUSTICE SHRI RAMLAL SINGH : VICE-CHAIRMAN (J)

(Orders passed in circulation by Hon'ble  
Shri B.N.Jayasimha, Vice-Chairman (A) ).

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This is an application for<sup>a</sup> review of our order  
dated 11-2-1991 passed in O.A.324/91.

2. We had dismissed the O.A.324/91 on the ground  
that the applicant had made a representation on 25-1-91  
to the departmental authorities against the transfer  
order and the respondents are yet to dispose-of the

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same. We had also stated that no case has been made out as to why the application should be admitted even before the representation is disposed-of by the respondents.

We had also relied on the judgment of the Supreme Court rendered in Gujarat Electricity Board and others Versus Athmaram Sungomal Poshani (1988 (2) SCC 602).

3. The grounds urged in the Review Application are

(i) This court failed to appreciate the provisions of section 20 of the A.T.Act, 1985 as the said section only provides <sup>for</sup> ~~avail~~ all the remedies available under the relevant service rules as to redressal of grievances. No specific relevant rules have been pointed out which provides for alternative remedy against the order of transfer of the applicant;

(ii) Section 20 of the A.T.Act provides that the Tribunal shall not ordinarily admit an application unless the remedies available under the relevant service rules as to the redressal of grievances are availed of. The Tribunal has committed an error apparent on the face of the record as this Tribunal has not appreciated the urgency of the matter and the fact that although the representation was given by the applicant on 25-1-1991, which otherwise not provided for in the relevant rules but the Original Application had been filed on 5-2-91.

(iii) The mind of this Court while dismissing the applicant's application was weighed with the proposition whether

the impugned transfer has any adverse effect on the career prospects of the applicant and this factor is not relevant in deciding the O.A. This court was required to see if the impugned order of transfer is malafide or whether the same was issued for extraneous or irrelevant considerations.

(iv) While passing the impugned judgment dated 11-2-1991, this court did not make any observation concerning the argument put forth by the applicant that the impugned transfer order has been passed with malafide intentions, to keep at bay the applicant who has unveiled various acts of fraud of Government funds.

(v) While dismissing the O.A. this Court ought to have fixed a time limit for disposal of the representation of the applicant, which has not been done in the present case thereby inflicting grave injustice to the applicant.

(vi) That after the pronouncement of the Judgment dated 11-2-91, the applicant reported at the office of the D.G.M. (IHC), MTNL, Chandralok Building, New Delhi in consonance with the transfer orders but he was not taken on duty as the applicant did not have technical background of computer and as such was not having the requisite qualification for posting in the above office. This fact has been discovered after the pronouncement of the judgment, which is a new and important fact having bearing on the decision of the transfer case and which goes to prove the malafides of the

Respondents in transferring the applicant to a place for which he does not have the requisite qualification. A copy of the joining report of the applicant dated 11-2-91 is annexed as annexure R-1 to this application. This new discovery which calls for review of our order dated 11-2-1991.

(vii) The posting order dated 31-1-1991 issued by the respondents makes it clear that the applicant is the only person who has been transferred from Respondents Office to the office of the DGM(IHC), which shows ~~xxx~~ the discriminatory treatment given to the applicant. The Judgment of the Hon'ble Supreme Court rendered in Gujarat Electricity Board and others Versus Atmaram Sungomal Poshani is not applicable to the present case as the impugned order is absolutely malafide and illegal.

4. We have considered these submissions. The Original Application was dismissed only on the ground that the application is premature under section 20 of the A.T. Act, 1985, in as much as the representation preferred by the applicant is yet to be disposed-of by the Respondents and no grounds <sup>have</sup> been made out as to why <sup>this application</sup> should be admitted before the representation has been disposed-of. We had not gone into the merits of the application i.e. whether <sup>the order of transfer</sup> is malafide or it is made in ~~the~~ colourable exercise of ~~the~~ power. ~~The~~ The case was disposed-of only on the ground of it being premature. The observation

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made by the Supreme Court are of general applicability and not confined to that particular case. We are unable to agree with the contention of the review applicant that the observation made in the judgment is applicable only to a case where an employee express genuine difficulties in proceeding for transfer.

5. As regard point No.(vi) i.e. he has not been allowed to join the duty as he did not have technical back ground of the computer, this is also a matter which the applicant may represent~~ed~~ to the authorities concerned. That would not make the <sup>application</sup> ~~applicant~~ not premature.

6. There however remains one point made by the applicant which requires our notice viz., that no time limit has been fixed for <sup>the</sup> disposal of the representation preferred by the applicant. We find merit in this submission and accordingly direct the respondents to dispose-of the representation of the applicant within a period of one month from the date of this order.

7. Needless to say that if the applicant is still aggrieved by any order passed by the respondents after considering his representation, this judgment is no bar to him to challenge that order.

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8. In the result, this review application is dismissed.

No order as to costs.

*Ram Pal Singh*  
(Ram Pal Singh)  
Vice-Chairman (J)

*B.N. Jayasimha*  
(B.N. Jayasimha)  
Vice-Chairman (A)

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