

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH  
NEW DELHI

D.A.No. 324/1991

DATE OF DECISION: 11.2.91

Kuldeep Singh

... Applicant

Shri P.S.Mahendru

... Advocate for the Applicant

Versus

1. Union of India,  
through the Chief General Manager,  
Mahanagar Telephone Nigam Ltd.,  
New Delhi-50.
2. The General Manager (PM) South,  
Mahanagar Telephone Nigam Ltd.,  
Eastern Court Bldg., New Delhi-1.
3. Dy.General Manager (CCS),  
Mahanagar Telephone Nigam Ltd.,  
Jaewan Vikas Bldg., Asaf Ali Rd.,  
New Delhi-2.

... Respondents

CORAM

The Hon'ble Shri B.N.Jayasimha, Vice-Chairman (A)  
The Hon'ble Justice Shri Ram Pal Singh, Vice-Chairman(J)

JUDGMENT

(of the Bench delivered by the Hon'ble Sri B.N.Jayasimha, Vice-Chairman)

The applicant herein, is an Accounts Officer under the Mahanagar Telephone Nigam Ltd., New Delhi and this Application is against Order No.DGM (CC-S)/E-5/90-91/91 dated 24-1-1991 passed by the 3rd Respondent herein, transferring him to the Office of AGM(A), D/o CGM, MTNL, New Delhi.

2. The applicant states that after he passed the P&T Junior Accounts Officer Examination, Part-II held in January 1985 he was appointed to the grade of Junior Accounts Officer and was posted under Mahanagar Telephone Nigam Ltd., New Delhi

on deputation by an order dated 8-2-1988. He was transferred from the Office of the Accounts Officer (W&B) to the Office of the Accounts Officer (P-I), Eastern Court Building, New Delhi by an order dated 27-9-1988. The applicant brought to the notice of the General Manager (Planning), MTNL regarding non-transfer of the service telephone connection (residential) attached to the former JAO (P-I) in the applicant's name due to discriminatory attitude of his immediate officer. Thereafter, the applicant was again transferred from the Office of the Asst. Chief Accounts Officer (P-I) to the Office of the Accounts Officer (P-II), Cannuaght Place Telephone Exchange, by an order dated 8-3-1989. He contends that this transfer was consequent to his having demanded a service telephone connection at his residence. The applicant further states that while he was working as J.A.O. (PWA) Section under the Accounts Officer (P-II), he wrote a letter dated 19-6-1989 to the A.O. (P.II) exposing frauds of thousands of rupees and irregularities being committed in Government accounts by Shri C.L.Chawla, the then Accounts Officer (P-II). After receiving this letter, the applicant was transferred to Cash Section under the Accounts Officer (P-II) by an order dated 19-6-89. After investigation into the complaint made by the applicant, by the C.B.I., Sri C.L.Chawla, the then Accounts Officer (P-II) was suspended from service with effect from 13-6-1990. Even though the applicant was ready to join the Cash Section as per the transfer order dated 19-6-89, inspite of several requests made by him, the applicant was made to work in the old post on 21-6-89 and 22-6-89. The applicant was on medical leave from 23-6-89 to 27-6-89. Thereafter, the applicant

was again transferred to join the office of the C.A.O. (TRA), Headquarter at K.L.Bhavan vide order dated 27-6-89. The applicant, thereafter, met the G.M.(A) on 28-6-89/29-6-89 in regard to his transfer and ~~thereafter~~<sup>28/6</sup> the order of transfer was cancelled by Memo. dated 30-6-89. The applicant also states that because of the complaint made by him against the then D.G.M. (C.M.), he was suspended on 21-7-89 by an order of the same date without assigning any reason. At the same time, one Shri O.P.Gupta, D.E., CPM(S) against whom the applicant had made complaint, was also suspended from service by the Department w.e.f. 13-6-90. On the representation made by the applicant to the Minister of State for Communications, against his irregular suspension order, the order of suspension was revoked by the Member Finance, Telecom. Board, by an order dated 6-9-1990 and he was directed to report for further duties under the Accounts Officer (P.II). After he joined duty on 10-9-1990, the applicant detected many frauds, embezzlement cases of Government money, etc. and submitted reports to the General Manager (PM-S), MTNL, New Delhi for necessary action. The Respondents instead of taking action against the erring officers, transferred the applicant once again by an order dated 24-1-1991. It is this order that the applicant questions on the ground that it is not in public interest and it has been made on extraneous considerations. The applicant has also submitted a representation on 25-1-91 to the General Manager (PM-S), MTNL against this transfer order, ~~on various grounds.~~

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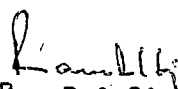
3. We have heard the learned counsel for the applicant Shri P.S. Mahendru who argued that the applicant had been subjected to frequent transfers because of the various irregularities he had pointed out and that the transfer order was not in public interest. He has also relied upon the judgments in Danoderan Vs. State of Kerala (1982(1) SLJ 81) and Pushpa Karan Vs. Chairman, Coir Board (1978 KLT 539) in support of his case.

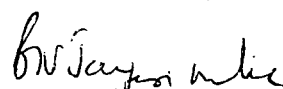
4. From the facts in the case, it is clear that the applicant has been transferred in equivalent posts and there is no change in the emoluments of the applicant. The applicant is also not able to say the adverse effect of this transfer on his career prospects. All that the learned counsel for the applicant says is that frequent transfers lowers the reputation of the applicant. Transfer is an incident of service and no employee has a right to remain in a particular post. The Government has a right to transfer an employee in the exigencies of work from one post to another. In any case, the applicant has already made a representation dated 25-1-1991 to the departmental authorities against this transfer order and the Respondents are yet to dispose of the same. No case has been made out as to why the application should be admitted even before the representation has been disposed of by the Respondents. The Hon'ble Supreme Court in Gujarat Electricity Board and another Vs. Atmaram Sungomal Poshani (1989 (2) SCC 602) has observed as under:

"4. ... .. Whenever a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer. In the absence of any stay of

the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. ... .."

As the applicant's representation is already before the departmental authorities, we find that this application is premature under Section 20 of the Administrative Tribunals Act, 1985. Accordingly, we dismiss the G.A. as premature. There will be no order as to costs.

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

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

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