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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No 1189/2004

New Delhi this the 14th day of May, 2004

Hon'ble Shri S.K.Naik, Member (A)

Smt. Gopa Chatterjee, wife of
Sri Dilip Chandra Chatterjee
working for gain as Architect
(Postal), Department of Post,
Patna residing at 25/1, K.M. Naskar
Road, Kolkata

. Applicant

(By Advocates Shri S.C. Saxena
with Shri Utpal Majumdar and
M. Deepak Kumar Jena)

VERSUS

1. Union of India service through the
Secretary, Ministry of Communication,
Department of Post, Dak Bhawan,
New Delhi.
2. The Secretary, Department of
Telecommunication, Sanchar Bhawan,
Ashoka Road, New Delhi.
3. The Director (Architecture),
Department of Telecommunication,
Chanderlok Building, 10th Floor,
Janpath, New Delhi.
4. The Chief Engineer (Civil),
South East Zone, Department of Post,
Jaylaxmi Mansion, 6th Cross Road,
Bangalore, 560009
5. The Senior Architect, Department of
Post, Yogagog Bhawan, Kolkata

. Respondents

O R D E R (ORAL)

Heard the learned counsel for the applicant who
says that the applicant, who is posted at Patna which
has been declared to be under "Tenure Circle" for the
purpose of transfer and posting, has been rightly
transferred to Kolkata as per their own policy dated
9.12.1999 issued vide Department of Telecommunications
order dated 8/12/5/2003. However, an intermediary i.e.

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Chief Engineer (Civil), Bangalore under whom the applicant is working, vide his letter dated 22.5.2003, has stated that transfer order cannot be implemented unless a substitute is posted at Patna. Learned counsel further contends that almost one year had elapsed since the passing of the order but the applicant is being retained despite the order of the superior authority. Since the request of the applicant for relieving her has not met with any success she has filed this OA before the Tribunal for a direction to the respondents that posting her should not be subject to any pre-condition which will amount to punishment for serving full tenure in a 'tenure circle'.

2. I have perused the Circular/order dated 9.12.1999 issued by the Govt. of India, Department of Telecommunications Service, Sanchar Bhawan, New Delhi which clearly states that employees posted in 'tenure circle' will be entitled to be posted at a station of their choice on completion of such tenure. The respondents in keeping with this circular have rightly ordered the posting of the applicant at Kolkata, as per her own preference. However, they have not relieved her from Patna for want of her substitute even though almost a year has elapsed from the date of passing of the transfer order. Her representations have met with no success. Thus the objective behind the 'tenure circle' posting has been defeated in so far as the applicant is concerned.

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3. I further find that the policy circular on transfer/posting to 'tenure circle' does not refer to any condition such as the provision of substitute/replacement as a pre-condition for even relieving. Therefore, the respondents clearly appear to be going against their own guidelines by detaining her beyond the period of tenure which she seems to have completed successfully. This is clearly prejudicial to the legitimate expectation of the applicant. I am therefore of the view that when the rights of the respondents are not likely to be affected, ends of justice would be met if the respondents are directed to get the posting order of the applicant implemented within a period of one month from the date of receipt of a copy of this order.

4. I do so accordingly.

5. O.A. is disposed of in the aforesaid terms.


(S.K.Naik)
Member (A)

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