

~~Open Court~~
CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

Allahabad : This the 29th day of February, 1996

Original Application No. 145 of 1996

Hon'ble Mr S.Dayal, Member-A

1. Jai Prakash Choubey aged about 32 years S/o Shri Ram Ugrah Choubey, working as Regular Mazdoor under S.D.E. Phones, R.L.U. CTX, Allahabad.
2. Parwez Ahmed aged about 33 years S/o Shri Zaheer Ahmed, working as Regular Mazdoor under S.D.E. Phones, R.L.U. City, Allahabad.

C/A Shri A.K.Gaur
Shri Rakesh Verma

.... Applicants

Versus

1. Union of India through Secretary, Ministry of Telecommunication, New Delhi.
2. The Chief General Manager Telephones (Eastern U.P.), Telecom Circle, Lucknow.
3. The Divisional Engineer Phones (Admin), Office of the Telecom District Manager, Allahabad.
4. The Sub-Divisional Engineer Phones, R.L.U. City, Allahabad.



Contd....2.

5. The Sub-Divisional Engineer
Phones, R.L.U. CTX, Allahabad.

C/R Shri N.B.Singh Respondents.

O R D E R (Oral)

By Hon'ble Mr S.Dayal, Member A

I have heard Shri Rakesh Verma for the applicants. Shri N.B.Singh for the respondents. Shri Rakesh Verma filed rejoinder-affidavit today on behalf of the applicants which is taken on record. Shri Rakesh Verma prayed for time as his senior Shri A.K.Gaur is stated to be sick today and not available.

2. Since the interim injunction is operating in this case, I am not inclined to grant further adjournment for argument in this case.

3. The arguments of Shri Rakesh Verma for the applicants and Shri N.B.Singh for the respondents were heard.

4. The applicants have come here for the relief of quashing of impugned order dated 17.11.95 ordering the transfer of the petitioners out of Allahabad Division and a direction to the respondent No. 2 & 3 not to disturb the petitioners from Allahabad Division.

5. The grounds on which the transfer order is assailed are that no special circumstances have been shown in the order of transfer because the petitioners' appointment contains the condition of non-transferability, because the applicant has made out prima-facie case against his transfer and because transfer order has been passed in the mid-session.

6. Rule 37 of Post and Telecom Manual Volum IV embargo on transfer of Group 'D' class of official except for a very special reasons. It is admitted that the applicant is a Group 'D' class of official.

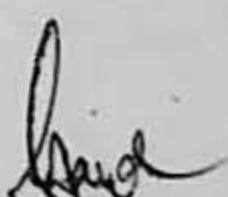
7. The respondents in their reply have mentioned in Para 9 that transfer was ordered because the applicants have mis-behaved with and man handled Senior Official Shri D.S. Chaudhari of the office of the District Manager, Telecom, Allahabad, and have created an atmosphere in which smooth functioning of the office was not possible which is alleged in Para 10 of the reply and it is subsequently stated that enquiry was made by the vigilance officer.

8. The applicants on the other hand has filed Annexure-1 of rejoinder reply which is a copy of the first information report lodged in Khuldabad Police Station, Allahabad against Shri D.S. Chaudhari. This report is lodged by Shri Shyam Babu, Divisional Engineer Phone. The allegation against Shri D.S. Chaudhari in the FIR are that Shri D.S. Chaudhari abused one Shri Girija Shankar Rai on Phone No. 605666 and threatened to kill him.

9. *While examining against the Deptt*
These the allegation of Telecommunication, ~~but~~ one thing is very clear from a reading of Annexure 1 & 2 to the counter reply and Annexure 1 to the rejoinder that the incident mentioned by the respondents in Para 9,10 & 11 of the counter reply took place on 24.9.95 while the incident for which complaint was filed by the applicants and mentioned in his rejoinder took place on 26.9.95, which is subsequent to the first incident. It is by way of retaliation ^{as is clear from its place} in point of time to the first incident. The learned counsel for the applicants has alleged that since the transfer was by way of punishment, it should be set a side, but the allegation remains unsubstantiated.

10. The Rule 37 of P & T Manual, Volume IV, permits transfer for special reasons. It is also mentioned by the applicants himself in Para 3 & 4 of his application that order of appointment of class IV employee mentions that he can be transferred under special circumstances to any part of India. The entire purposes of existence Telecom department is to maintain efficiency and interruption free service for subscribers of telecommunication department. The incident complained of by the respondents in their counter reply makes it very clear that a situation had arisen in which very objective of telecommunication department was jeopardised. There can not be more special reasons then the ones existing in this case for transfer of employees even out side the division.

11. I, therefore, find no merit in this case and the application is dismissed accordingly. There shall be no order as to costs.



Member A

DL/