

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 4th day of June 1996

Hon'ble Dr. R.K. Saxena, Member (J)

Original Application No. 71 of 1996

J.C. Bharadwaj, 52 years, S/o Late Harbanslal, R/o
683/8 Sanjay Marg, Muzaffar Nagar, A

APPLICANT

By Advocate Sri Sudhir Agrawal

Versus

1. Union of India through the Secretary, Ministry of Telecommunication, New Delhi.
2. The General Manager, U.P. West, Dehradun.
3. The Telecom-District Manager, Muzzafarnagar.
4. Sri Jagveer Singh, Senior Section Supervisor (Staff) Office at Telecommunication, District Manager, Muzzafar Nagar.

RESPONDENTS.

BY Advocates Sri Amit Sthalekar -For respondents 1 to 3
 Sri K.C. Sinha -For respondent no.4
 Km. S. Srivastava - For respondents 1 to 3

O R D E R

By Hon'ble Dr. R.K. Saxena, Member (J)

The applicant has approached the Tribunal through this O.A. to challenge the transfer order dated 29.12.1995 annexure A -1.

2. The brief facts of the case are that the applicant had started his career as time scale clerk on 8.7.1964. From time to time he was promoted, and at the time when impugned order of transfer was passed, he was working as Senior Section Supervisor (Construction) Muzzafar Nagar. By this order under challenge, he has

been transferred to the post of Senior Section Supervisor(Computer). It is contended that neither there is any computer, nor any staff nor even the post of Senior Section Supervisor. It is claimed that he is being posted on nonest post and with no work. Placing reliance on the observation made by their Lordships of Supreme Court in the case P.K. Chinnaswamy Vs. Govt. of Tamil Nadu, A.I.R. 1988 S.C. 78, it is demanded that he should be posted at such a place where he could do some work commensurate to the salary and other benefits which he draws from the State.

3. The contention of the applicant is that he has been transferred from his post with ulterior motive to accommodate respondent no.4. He also claims that the impugned order is illegal and suffers from malafides. Hence this O.A. with the relief mentioned in the beginning.

4. The O.A. has been opposed by the official respondents no.1 to 3 and by the private respondent no.4 by filing separate counter-replies. The official respondents refuted the allegation that there was no computer, no staff and no work. It is emphasised that one computer was already installed while orders have been placed for the purchase of another. It is pleaded that 80% of the staff including the applicant was given training in computer. On completion of the training one advance increment was given and the applicant was also getting the benefit of the advance increment. It is said that option for computer

was called and the applicant was one of the optees.

5. The respondents further aver that revenue billing was to start from April, 1996 because the contract of billing through private party was expiring on 31.3.96. Clarifying the reason for inviting tender about preparation of bills by private agency, it was submitted that computer section could not be made fully operational. The O.A. is, however, opposed.

6. 7 The respondent no.4 filed reply and states that there are six sections in the office of the respondent no.3. Those sections are as follows -

1. Telephone Revenue Accounts Section.
- 2 Pay Section
- 3 Staff Section.
- 4.4. Commercial Section.
5. Construction Section
6. General Section.

Of these sections, staff and commercial sections are supervised by one Senior Section Supervisor. While construction and general sections are supervised by another Senior Section Supervisor. The section of telephone revenue account is supervised by a third Senior Section Supervisor. The remaining pay section is supervised by an accountant. It is said that the work of telephone revenue account section has been computerised on the basis of all Indian policy. For doing the technical job, training was needed and for that purpose option of the staff was sought. The

applicant is said to be one of the optees. It is contended that he has joined on the post from which the applicant was transferred. Similarly other transferres except the applicant have joined their posts. All the transferres, according to the respondent no.4, are required to work under respondent no. 3 and in the same office. He opposed the insistence of the applicant to continue on one post.

7. The applicant filed rejoinder reiterating the same facts which were brought in the O.A.. He also filed supplementary affidavit to bring on record the tender notice whereby tenders were invited from the computer agencies in Muzzafar Nagar, for preparing telephone bills and other statistics. The official respondents filed reply thereto.

8. I have heard Sri Sudhir Agrawal, on behalf of the applicant and Sri Amit Sthalekar for the official respondents and Sri H.S. Srivastava proxy counsel to Sri K.C. Sinha representing the respondent no.4. The record is also perused.

9. The applicant has challenged the order of transfer mainly on two grounds. First is that there is no such post in existence. He is sent as Senior Section Supervisor but there is no staff and thus the duties of a Supervisor cannot be discharged. Second ground is that he was transferred to bring respondent no.4 on the said post. I shall discuss these grounds separately.

10. There is no denial that computerisation is introduced in the section of telephone revenue accounts through-out India on the basis of uniform policy. The purpose, as is disclosed in the counter-reply of respondents no.1 to 3, was to prepare the telephone bills in the department itself. The help of private computer agencies was to be given up. To start with the scheme, infrastructure was needed. The first requirement was of trained staff. Consequently, the option of the staff was sought. To assure them, one advance increment was given. The applicant himself opted for the job. He was given training. He got one advance increment. Thus it is clear that the applicant himself desired to go to the computerised section of telephone revenue accounts. No-body else can be blamed for that invitation. There is not even an iota of evidence to suggest any prejudice or malafides against the applicant. Similarly, there is no grain of truth to conclude that the impugned order was passed by the respondent no.3 to show favour to the respondent no.4. What appears is that the applicant took these pleas so that the order of transfer may be brought within the scope of judicial review.

11. The high sounding preaching that a person should not be sent to a post where there is no work, is also of no help to the applicant. Whenever a new scheme is introduced, some vacancy always appears but that is not the reality. One computer waspg.6/-

already installed and the other was in the process of installation. Such huge investment is made yet the applicant has got suspicion in the implementation of the scheme.

12. The averment of the applicant that he is supervisor and he cannot exercise his authority unless some employees of class III and class IV are posted, reflects the tendency of the days bygone. A supervisor or a higher authority should equally share the work of his subordinates and it is then only that he may be in a commanding position among his subordinates. Anyway, my point is that the reason given for showing the post as nonest, is not appreciable.

13. By this impugned order, the applicant is not transferred out of Muzzafar Nagar, not even out of the office of the respondent no.3. There is neither any displacement nor any disturbance to him or to his family. Mere change of chair in the same office should not be agitated particularly when the impugned order is neither in violation of rules nor does it suffer from malafides. Also it is neither shown nor established to be penal in nature.

14. On the basis of the discussions made above, I come to the conclusion that there is no merit in the case. The O.A. is, therefore, dismissed. The order of status-quo which was granted on 24.1.96, stands vacated. Cost made easy.

(Dr. R.K. Saxena)
Judicial Member