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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Amended
wde order
dt 23/01/88
on separate
application.

Registration(OA) no. 839 of 1987

Kapil ~~Chauhan~~ Singh applicant.
23/8/88

Versus

Telecom Divisional Engineer, Sultanpur
and another

.... Respondents.

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Sole copy (P)

Hon'ble D.S.Misra, A.M.
Hon'ble G.S.Sharma, JM.

(Delivered by Hon'ble D.S.Misra)

This is an application under Section 19 of the E.A.T. Act, XIII of 1985, in which the applicant has challenged the order dated 21.7.1987 transferring the applicant from Allahabad to Sultanpur and thereafter to Jhansi. The applicant had also sought an interim order staying the transfer order and the same was allowed and he is continuing.

2. The applicant's case is that he worked in the Army in the Corps of Signals as a Combatant Clerk from 3.11.1962 to 15.4.1981; that after his retirement, he has been re-employed as Tele Com Office Assistant (hereinafter called as TOA) in the office of Divisional Engineer Telegraph, Allahabad w.e.f. 21.2.1984; that the Corps of Signals of the Indian Army have the same rules, same set up, mode of working and even the pay scales of the clerical staff as in the Army Postal Service; that these two services are called sister units of P&T Department in Hilly/ Frontier area of the country; that after the re-organization

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of the office of the Divisional Engineer Telegraph, Allahabad, it has been bifurcated into 4 parts and located at three other places viz. Mirzapur, Jhansi, and Sultanpur vide order dated 27.5.87 (copy annexure A-1); that in accordance with the aforesaid order, posting and transfers of officials of TOA cadre were to be managed on the option cum divisional gradation list seniority basis, but neither the options nor the unit/divisional gradation list was finalised and the impugned order of transfer was issued on 21.7.1987 transferring the applicant from Allahabad in an illegal and arbitrary manner; that the applicant had opted for his posting in the office of District Manager Telephones, Allahabad keeping in view his re-settlement treatment/education of his children and his long service with the defence away from home; that the order of his transfer to Jhansi has been made on the basis of his present seniority in unit/divisional gradation list ignoring his previous service and transfers during defence service; that the applicant has been given 17 advance increments in view of his services in the Army and he is entitled to a higher seniority in the unit/divisional gradation list of seniority of TOA cadre; that the applicant made great efforts to the authorities to consider his aforesaid earlier services equally in the matter of transfer/posting sympathetically, but inspite of availability of vacancies in the office of District Manager Telephone, Allahabad, the applicant is being forced to move out of Allahabad. The applicant has sought a direction to respondents nos. 1 and 2 to accommodate the

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applicant against several vacancies lying under the office of the Tele Com District Manager, Allahabad permanently for his remaining days of service.

3. In the reply filed on behalf of the respondents, it is stated that the order dated 21.7.87 transferring the applicant from Allahabad to Jhansi is in accordance with the scheme of re-organization as enunciated in various letters of Tele Com Board, General Manager Tele Com, U.P. Circle as well as deliberations taken in the Implementation Sub Committee of SSA scheme held on 6th February, 1987 and 16th July, 1987 in which the members mentioned by the Joint Consultation Machinery of the Staff side were represented; that the Tele Com Divisional Engineer Sultanpur was perfectly justified in ignoring the previous transfers/postings of the applicant in the defence services as the petitioner is the junior most official from the date of his recruitment in the organization; that/ the Army Postal Service and the Corps of Signals are correlated, the mode of recruitment in the two services is entirely separate; that in the Army Postal Services, the officials of the P&T Department are taken on deputation whereas in the Corps of Signals the recruitment is made by the Defence Department; that in the matter of transfer of officials as a result of re-organization of Tele Com Districts, the criteria for finalization of the options of the officials was clarified and it was decided that options will be finalised strictly on the basis of seniority as per gradation list (copy of the minutes of the meeting at CA 1). In this meeting it was also decided that the officials who can not be accommodated at the stations of

their first preference will be given stations of their second or subsequent preference subject to availability of vacancies in respective stations; that the applicant can not claim to stay at Allahabad as a matter of statutory right and no special treatment is given to him in the matter of posting and transfer; that in the divisional gradation list of TOAs of Allahabad Telegraph Engineering Division dt. 31.12.85 the applicant is placed at sl.no. 82 and this is in accordance with his posting in the selection held for the selection of RTP, TOAs in the year 1983. The applicant being the junior most TOA working in the division has no claim for being retained at Allahabad and the transfer has been made in the public interest and in accordance with a policy decision taken in consultation with the representations of the employees of the department.

4. We have heard the arguments of the learned counsel for the parties. The main thrust of the learned counsel for the applicant is that the applicant having served the defence forces for a period of about 18 years has settled at Allahabad and has to look after the education of his children and other family matters and if he is shifted from Allahabad, he will suffer irreparable loss and inconvenience. The applicant has not challenged his seniority in the divisional seniority list of TOAs of Allahabad Telegraph Engineering Division (copy RA 11) and has merely prayed for being accommodated at Allahabad permanently for remaining days of his service to meet the ends of

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justice. Learned counsel for the applicant referred to various instructions of the Ministry of Defence, in support of his contention that ex servicemen should be given seniority on re-employment in a civilian post, but we are unable to consider this contention in view of the fact that the applicant has not challenged the seniority list issued by the department. The applicant has not made any allegations regarding malafide, arbitrariness and discriminatory action by the respondents regarding his transfer. The applicant has filed one another petition no. 693 of 1987 claiming certain relief such as fixation of pay on the basis of seniority but did not seek any relief for the refixation of his seniority nor did he implead the persons likely to be affected by the seniority claimed by the applicant in any of the petitions, therefore, his seniority can not be examined or refixed by us in this petition.

5. The applicant has also made allegations about the options and change of options. The respondents have stated that the options given by the applicant were considered in the light of the policy decision taken in the matter and as the position of the applicant in the divisional seniority list of TOAs is at sl.no.82, he could not be accommodated at Allahabad according to the option given by him. As the applicant has not contested his seniority and has not mentioned the name of any person junior to him, who has been retained at Allahabad, his contention regarding non-acceptance of his option in an unreasonable manner is also found to be baseless.

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6. The other contention of the applicant that some vacancies are still available at Allahabad and he can be accommodated at Allahabad itself, is a matter which was not under dispute in this case. The transfer being an incidence of service and subject to the exigencies of administration, we are reluctant to give any direction to the respondents on this aspect of the matter. As the applicant has chosen to take up a civilian job which by its very nature is transferable, he can not claim a right to stay at a particular place permanently by virtue of being an ex serviceman.

For the reasons mentioned above, we find no merit in this application and the same is dismissed without any order as to costs. The interim stay granted earlier in the case is hereby vacated.

J.M.
J.M.

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A.M.

JS. 10.8.88