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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

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Registration (O.A.) No. 993 of 1987.

Banarasi Seth .... Applicant.

Versus

Union of India & another ... Respondents.

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Hon'ble S. Zaheer Hasan, V.C.  
Hon'ble Ajay Johri, A.M.

(Delivered by Hon. Ajay Johri, A.M.)

In this application, received under Section 19 of the Administrative Tribunals Act XIII of 1985, the applicant, Banarasi Seth, who was working as a Telegraphman under the Senior Superintendent, Telegraph Traffic, Varanasi, has challenged the order dated 25.5.1987 passed by the Senior Superintendent, <sup>✓</sup> relieving ~~transferring~~ him from the <sup>✓</sup> for affecting transfer post of Telegraphman, Varanasi, to the same post at Bahrach.

2. The applicant's case is that a Telegraphman is classified as a class IV employee and, therefore, his services should be confined within the limit of Varanasi, as he was selected for the job from the Employment Exchange, Varanasi. His seniority is also maintained amongst 43 persons, who are working as Telegraphmen. According to him, the district of

Varanasi has several departments and in terms of the Director General, Post & Telegraph's letter of 16.12.81 the post of Telegraphmen is a tenure post and they cannot be transferred on rotation. In 1987 the applicant had fallen sick and while he was on medical <sup>or cum relevancy</sup> leave he received the impugned transfer/orders. He had represented against the same on account of sickness of his family, but no action has been taken on his representations. He has also personally met respondent no.2 on 5.10.1987. He has, therefore, prayed for staying the operation of the impugned order and for issue of directions to the respondents to permit him to work at C.T.O., Varanasi and for quashing the order dated 25.5.1987 transferring him to Bahraich.

3. This application has been opposed by the respondents on the grounds that the applicant was employed in class IV category in June, 1968 and was regularised on the post in 1971. He is being treated as on the Divisional Cadre after formation of the Telegraph Traffic Division. There was no understanding given to the applicant that his services shall be confined within the limits of Varanasi. He has been appointed on a Divisional Cadre with liability of transfer within the Division. Varanasi Telegraph Division has other offices at Gorakhpur, Ballia, Jaunpur, Basti, Gonda, Bahraich, etc. under its control. According to the respondents, there is no

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bar on a transfer of a Group 'D' employee within the Telegraph Division. The applicant has been transferred in the interest of service and the transfer orders were issued on 3.4.1987. The applicant has ~~been~~ <sup>3/</sup> absented himself from duty since then and there was no possibility of his resumption, therefore, he was advised by a registered letter to report for duty at Bahraich. The applicant has also been examined by the Senior Medical Officer, Varanasi on 25.9.1987 and has been found fit for performing his duties. His salary, etc. will now be drawn at Bahraich and his leave will also be regularised by that office.

4. We have heard the learned counsel for the parties. The learned counsel for the applicant contended that the applicant belonged to Group 'D' staff and in terms of Rule 37 of the Telegraph Manual Postmen, village postmen and Group 'D' ~~employees~~ <sup>3/</sup> ~~servants~~ should not, except for very special reasons, be transferred from one district to another. This was opposed by the learned counsel for the respondents on the short ground that Rule 37 refers to the Telegraph Districts and not the Civil Districts and since Varanasi <sup>3/ Telegraph</sup> District also controls the Bahraich Telegraph Office, the transfer cannot be assailed by the applicant.

5. Rule 37 of the Telegraph Manual on transfers and postings reads as follows :

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"37. All officials of the Department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfers should not, however, be ordered except when advisable in the interests of the public service. Postmen, village postmen and Group 'D' servants should not, except for very special reasons, be transferred from one district to another. All transfers must be subject to the conditions laid down in Fundamental Rules 15 and 22."

It is also mentioned in Rule 37-A that transfers should generally be made in April of each year so that the education of school-going children of the staff is not dislocated. A plea has also been taken in his rejoinder affidavit by the applicant that the sons of the applicant are studying at Varanasi and therefore, he has also given this as a reason for cancellation of his transfer order. The transfer order was issued in April, 1987. <sup>in terms of the rules</sup> ~~in terms of the rules~~ <sup>as generally</sup> ~~as~~ normal school sessions come to a close sometime at the end of April or beginning of May. The other ground that has been argued is that Group 'D' staff should normally not to be transferred outside the district in terms of Rule 37 of the Telegraph Manual and that the applicant has got certain personal difficulties in carrying out the transfer. In his representation dated 1.10.1987 (Annexure II to the application) the applicant had said that his wife has

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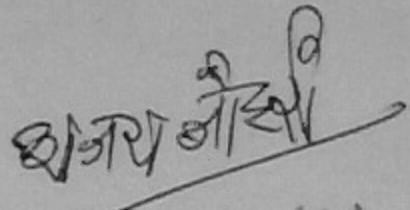
been recommended bed rest by the Doctor for three months and, therefore, he had prayed that not only he was not well from 1.4.1987 but because of his family circumstances and medical attention to his wife his transfer order dated 25.5.1987 be reconsidered and cancelled.

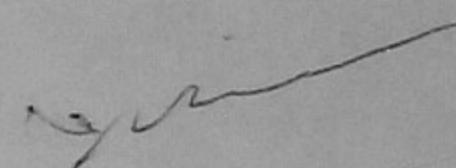
6. The applicant was transferred on 3.4.1987. He was also transferred within the Telegraph District in terms of Rule 37 of the Telegraph Manual. He reported sick on 1.4.1987 and when he did not report back till 25.5.1987 the impugned order relieving ~~his~~<sup>3/</sup> him was issued by the Varanasi Office. In matters of transfers and postings it is the responsibility of the Department to decide on the matter and to ensure that the administration runs ~~s~~<sup>3/</sup> sufficiently and properly. Transfer within the district cannot be challenged as there is no bar on such a transfer. The respondents have said that the transfer has been made by them in the interest of administration. We do not see any indication of a mala fide or an attempt to achieve ~~the~~<sup>any</sup> alien purpose in this transfer order~~s~~<sup>3/</sup>. The applicant has also not been ~~de~~<sup>3/</sup> m<sup>m</sup> devoted as a result of this transfer. Therefore, as long as the transfer is in the exigencies of service is not to a lower post and it~~is~~<sup>3/</sup> not discriminate a person, ~~so~~<sup>3/</sup> it would not be open to attack. We, therefore, do not find any force in the claims made by the applicant.

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7. On the above considerations we dismiss the application. Parties will bear their own costs.

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MEMBER (A).

  
VICE-CHAIRMAN.

Dated: May 12<sup>th</sup>, 1988.

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