

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1540 of 1999

Allahabad this the 31st day of January, 2000

Hon'ble Mr. S.K.I. Naqvi, Member (J)

Jai Ram Prajapati s/o Sri Mangal Ram Prajapati,  
Junior Telecom Officer (Installation) Varanasi,  
under Director Telecom (Switching and Installation)  
Lucknow.

Applicant

By Advocate Shri J.P. Singh

Versus

1. Union of India through Secretary, Department of Telecommunication, Central Government, New Delhi.
2. Chief General Manager, Telecom U.P. (East) Circle, Lucknow.
3. Assistant General Manager (Staff) U.P. East Circle, Lucknow.
4. S.O. (N.C.G.) Department of Telecommunication, New Delhi.
5. Director Telecom (Switching and Installation), Lucknow.
6. General Manager, Telecom District Dharmshala, H.P.

Respondents

By Advocate Shri Amit Sthalekar

By Hon'ble Mr. S. K.I. Naqvi, Member (J)  
as U R D E R (Oral)

Shri Jai Ram Prajapati, Junior Telecom  
Officer (Installation) Varanasi, under order of

transfer from Varanasi to Dharmshala, has come up before the Tribunal impugning the transfer order dated 06.12.99 with the prayer that the order be set aside and the respondent no.2 be directed to re-consider the transfer of the applicant from installation to District Telecom, Varanasi.

2. The applicant has pressed his relief mainly on the ground that he has been transferred under Rule 37 P & T Manual but the relevant provision of this Rule are not applicable to him because for his mid-session transfer, no reason has been assigned by the respondents to bring it as emergent case. The applicant has also mentioned that the disciplinary proceedings against him are being conducted at Lucknow and it may be unjust to him if he is transferred to Dharamshala Himanchal Pradesh as he may not effectively participate in the disciplinary proceedings.

3. It has also been pressed on behalf of the applicant that he is facing a criminal case at Azamgarh which is at revisional stage before District Judge, Azamgarh and the same is ordinarily listed two or three times in a month and, therefore, it will be a hardship to him if he is transferred to Dharamshala, H.P. as to appear on each date of hearing before District Judge will cause him heavily on financial side as well as he will have to take leave for the same. The applicant has also mentioned

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that this transfer in the middle of education session will adversely effect the education of his children.

4. The O.A. has been contested by the respondents and C.A. has been filed to repulse the contention of the applicant and in support of impugned order.

5. Heard, learned counsel for the rival contesting parties and perused the record.

6 It is not in dispute that the applicant was subjected to criminal trial before C.J.M., Azamgarh for a case under section 419, 420, 429 of I.P.C. and 21 of I.T. Acts for alleged <sup>possession</sup> misuse of his official capacity by installing unauthorise telephone connections in his rental house and earning unauthorise <sup>fr</sup> income therefrom. It is also not in dispute that in this criminal case, the applicant has been discharged from the Court and a revision is pending before the District Judge, Azamgarh. Learned counsel for the respondents argues with mention of these facts and has pressed that under these circumstances, the department took a decision to transfer the applicant under Rule 37 of Post and Telegraph Manual. So far as disciplinary proceedings at Lucknow are concerned, it has been pointed out that <sup>the</sup> in departmental proceedings, the delinquent officer is not required to take any leave for participation in the proceedings.

It has also been pointed out that as per respondents case in para-19 of the counter-affidavit, the department has taken decision to transfer these disciplinary proceedings to the station to which the applicant has been ordered to be transferred.

7. Taking in view the facts and circumstances of the matter and the scope of judicial review in the transfer matters, it is settled position that the transfer is one of the condition of the service of Government servant and the Courts can interfere only if some malafide or illegality is alleged and brought home through attaining <sup>for</sup> the facts and circumstances, which is wanting in the present matter.

8. For the above, I do not find any merit in the matter and the U.A. is dismissed accordingly. Obviously after the final decision, the interim order stands vacated. There will be no order as to costs.

*S. C. M. J.*

Member (J)

/M. M./