

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

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Dated: Allahabad, the 19th day of April, 2001.

Coram: Hon'ble Mr. Rafiq Uddin, JM

ORIGINAL APPLICATION NO. 233 OF 2000

Naseer Khan,  
s/o late Sheikh Khairati,  
r/o inside Sainyar gate,  
Questiana, House No.54,  
Jhansi.

.....Applicant

(By Advocate: Sri K. S. Saxena  
and Sri M. S. Uddin )

Versus

1. The Union of India,  
through the Chief General Manager  
Telecom (E), U.P. Circle,  
Lucknow-1.
2. The Chief General Manager,  
Telecom (E), U.P. Circle,  
Lucknow-1.
3. The Telecom District Manager,  
Dept. of Telecommunications,  
Jhansi.
4. The Sub-Divisional Officer, Phones II,  
Dept. of Telecommunications,  
Jhansi.

..... Respondents

(By Advocate: Sri Satish Chaturvedi)

O R D E R

(RESERVED)

(By Hon'ble Mr. Rafiq Uddin, JM)

The applicant Naseer Khan, who is working  
as Lineman in the office of Sub-Divisional Officer,

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Phones-II, Department of Tele-communication, Jhansi has been transferred to Fatehpur from Jhansi, vide order dated 6.1.2000. By means of this O.A., the applicant has sought direction for quashing of the impugned transfer order and further direction to the Respondents to retain him at Jhansi.

2. The case of the applicant is that he is 'Zila Mantri' of Akhil Bhartiya Doorsanchar Karamchari Sangh, Line Staff AVM Group 'D' (hereinafter referred to as "Sangh"), Jhansi. The applicant as such is holding a trade union post in his capacity as Zila Mantri of the Sangh representing genuine grievance of the employees as well bringing to the notice of the authorities concerned various irregularities committed by the officers concerned of the department at various levels and also cases of corruption against erring staff. The applicant has in this connection filed copies of various letters addressed by him to the Director, Vigilance and to the Communication Minister, New Delhi, in which he had levelled charges of misappropriation of government money, involving superior authority. The impugned transfer order of the applicant is punitive in nature, because the same has been passed merely for his raising the voice against the alleged corrupt practices and irregularities being resorted to by the local higher officers of the department. The applicant as such has been victimised for his genuine trade union activities.

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3. I have heard Sri K.S. Saxena for the applicant and Sri Pankaj Srivastava, brief holder for Sri Satish Chaturvedi for the Respondents and perused the records.

4. The Respondents have not disputed the applicant being the Zila Mantri of the Sangh. It is, however, contended that the applicant had never acted like a trade union leader and, on the other hand, he was indulging in unfair/undesirable and unlawful acts. It is also alleged that it has always been the effort of the applicant to take undue and out of turn advantage from the officers of the department, which could not be fulfilled being unjustified and illegal. It is also claimed that the applicant had/defaming officers at various occasions and had also given false and defamatory news to the local News-paper 'Aaj', which was also censured by the Press Council of India. The allegation of forcibly locking the officer of Sub-Divisional Engineer rank inside his chamber by the applicant in the month of January, 1998 has also been made against the applicant. The applicant has also been charge-sheeted on 9.10.98 for the aforesaid incident, which is obviously beyond the norm of any trade union activity.

5. The learned counsel for the applicant has urged before me that the applicant has been punished by the respondents for his trade union activities and hence his impugned transfer order cannot be

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said to have been passed in public interest, as claimed by the Respondents. It is also stated that since the applicant has already been charge-sheeted and he is being proceeded under disciplinary proceedings, the applicant cannot be transferred on the same allegation unless charges levelled against him are duly proved. The learned counsel has, therefore, sought quashing of the impugned transfer order on this ground. However, I am not impressed by the arguments of the learned counsel for the applicant on these points. There is no satisfactory or convincing explanation from the learned counsel for the applicant whether the activities of making allegation of corruption against higher authorities is a part of trade union activities. In my opinion, the trade union activities consist of taking steps or raising grievance of the employees before the higher authorities. The allegation of alleged corruption or irregularities in financial matters is not the part of the trade union activities. The applicant has not made allegation of mala fide on part of any respondents. The transfer is an incident of service. The respondents in the interest of justice has power to transfer the applicant from one district to another, when no mala fides on part of the respondents or breach of any service rules have been alleged. I do not find any justification to interfere with the impugned order.

6. For the reasons stated above, I do not find any merit in the O.A. and the same is dismissed. No order as to costs.

*Rafiq Uddin*  
(RAFIQ UDDIN)  
JUDICIAL MEMBER.

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