

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 323 of 2002

Allahabad this the 27th day of March 2002

Hon'ble Mr.C.S. Chadha, Member (A)

Nabi Ahmad a/a 42 years Son of Late Mohd.Khan, R/o
Zakir Nagar, Gali No.2, Civil Lines, Aligarh, presently
posted as Phone Mechanic Telecom Distt.Aligarh.

Applicant

By Advocate Shri Sudhir Agarwal

Versus

1. Union of India through the Secretary, Ministry of Telecom, New Delhi.
2. The Director General, Bharat Sanchar Nigam Ltd. Sanchar Bhawan, New Delhi.
3. Asstt. Director General (RE.R.S.-3) Bharat Sanchar Nigam Ltd. Sanchar Bhawan, New Delhi.
4. The Ghief General Manager, Telecom, Bharat Sanchar Nigam Limited, U.P.(West) Telecom Circle, Dehradun.
5. The General Manager, Telecom District , Aligarh.
6. The Sub Divisional Engineer, O.F.C. Main Telephone Exchange, Bharat Sanchar Nigam Limited, Aligarh.

Respondents

By Advocate Shri Ashish Gopal

O R D E R (Oral)

By Hon'ble Mr.C.S. Chadha, Member (A)

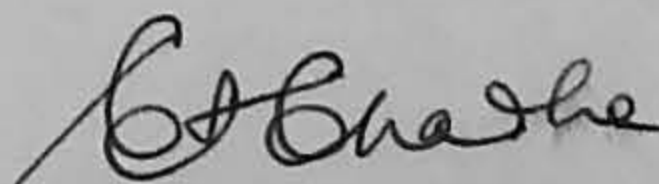
The case of the applicant is that he is
a Telephone Mechanic serving at Aligarh and he went
on sanctioned leave w.e.f. 16.02.2002 to 25.03.2002

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because of the serious illness of his wife, who unfortunately passed away during the leave period on 07.03.2002. The applicant has been transferred vide the impugned order from Aligarh to Andman and Nicobar Island. The impugned order in the subject itself mentions ~~was~~ ^{On} "Complaint regarding misconduct and bogus claim of T.A. and O.T.A.-case of Shri Nabi Ahmad, Phone Mechanic, Aligarh. Transfer thereof under Para-37 of P.& T Manual Volume IV". It clearly means that the transfer order has been effected as a mode of punishment on the basis of complaint of misconduct and bogus claim. I am afraid para-37 though allowing transfer to any part of the India clearly states that such transfer order shall be subject to F.R.15 and 22 which lay down that the transfer should not be effected as a mode of punishment. I am constrained to observe that if there was a serious misconduct committed by the applicant, he should have been charged ^{on sheets} and action against him taken under C.C.A. Rules. This transfer is definitely malafide. I am surprised to hear from the learned counsel for the respondents that the applicant is a trade union leader and it is not in the public interest to retain him at his present place of posting. I wonder if an office bearer of trade union can be transferred to areas beyond their division. In-fact there are instructions to the effect that the office bearers of the trade unions should not be transferred at all. This transfer is definitely an act of vindictiveness and should therefore be deprecated and criticised. Official in the administrative wing of the government cannot

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behave like tyrants. If he is guilty of any mistake he should definitely receive punishment after due process of law. Learned counsel for the respondents also stated that the ^{applicant} ~~the~~ has been working for 27 years. In such circumstances if it is considered necessary to transfer the applicant out of Aligarh, he may be so transferred but within the same circle for which his seniority is determined. This transfer also may be effected after keeping in view the instructions regarding transfer of ~~the~~ trade union office bearers. I find that the impugned order is vindictive, carried out as a mode of punishment and, therefore, cannot be sustained. I find that this matter is not worth even waiting for a counter-reply from the respondents and the transfer order deserves to be quashed. The O.A. is therefore, allowed. The impugned transfer order dated 25.02.2002 and relieving order dated 16.03.02 are hereby quashed with the above observations. There shall be no order as to costs. Copy of the order may be given within 2 days.



Member (A)

/M.M./