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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Reserved
(On Interim relief)
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MA No. 2344 of 2007

in

Original Application No.995 of 2007.

Order dated : 8th November, 2007.

R.K. Tyagi

...Applicant

Versus

Union of India & ors.

...Respondents

By Hon'ble Mr. P.K. Chatterji, A.M.:

I have heard Shri K.P. Singh, learned counsel for the applicant and Shri D.S. Shukla, learned counsel for the respondents on the question of interim relief.

The applicant has challenged the transfer order passed by DGM Administration, Meerut dated 16.6.2007 transferring the applicant from Rampur to Muradabad. The applicant is working as Divisional Manager Telecom. The applicant, while requesting the Tribunal to set-aside the order of transfer has also prayed for an interim relief that during the pendency of the original application the possession of the accommodation of the applicant at Rampur may not be disturbed by the respondents.

2. The respondents were directed to file short reply giving their objection, if any, to granting the interim relief. The respondents have filed their reply in which they have seriously objected to the grant of interim relief and stated the following points :

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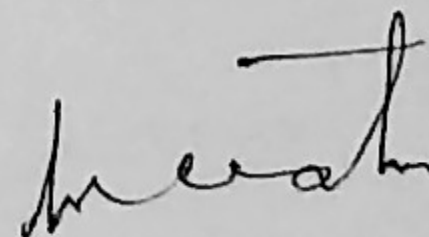
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for Shri K.P. Singh
for 2nd K.P. Singh
8-11-07*

*Received copy
D.S. Shukla
Advocate
for BSNL
12-11-07*

- (a) The applicant was transferred in consequence of certain alleged irregularity in the establishment, which was exposed by IBN 7, T.V. Channel. The respondents have found evidence that the applicant's conduct in connection with the matter exposed was not above board so he was initially placed under suspension which, however, was revoked by an order of Hon'ble High Court. However, the respondents were of the view that his continuing in the post would adversely the image of the department and so in administrative interest he was transferred.
- (b) The applicant has already joined the new Station to which he was transferred. He was allotted a regular quarter to which he is entitled. For this reason, there is no justification for him to retain the quarter at the old Station.
- (c) The plea that mid academic session transfer will affect the education of his child hardly holds water. His child is less than 3 years old. It is not difficult for the applicant to admit the child in a new School.
- (d) The applicant has already obtained Transfer Certificate for the child from the School in which he was studying at Rampur.
- (e) The quarter of the Divisional Manager is a post attached quarter and unless it is vacated by the applicant the new incumbent cannot move in.

3. Learned counsel for the applicant tried to rebut the point made by learned counsel for the respondents and stated as follows :

- (a) the applicant did not have any role to play in the alleged mal practice as exposed by the T.V. Channel. He has been made a scapegoat. The transfer has been made as a face saver and to project a image of integrity of the Department to out side.
- (b) The applicant was placed under suspension earlier. The suspension was challenged. The Hon'ble High Court upon hearing the matter directed the respondents to review the matter and in pursuance of the direction the suspension order was revoked. It is seen that the Hon'ble High Court was convinced that the applicant had no involvement in the alleged mal practice.
- (c) Learned counsel for the applicant has not denied the applicant took the Transfer Certificate from the School in which his child was studying in Rampur. But no School at the new Station of posting has admitted the



child in mid session. If he is not allowed to retain the quarter at Rampur the Child will be losing one year in his academic progress.

- (d) Retention of the quarter at Rampur will not affect the respondents in any way as the new incumbent for the post from which he was transferred has already been given a quarter and he is not inconvenienced in any way. The operation of the service is also not affected any way.
- (e) The applicant has challenged the transfer order as arbitrary and malafide. Learned counsel says that as the Tribunal looks into the case on merit it will become obvious that he has been made scapegoat. Still as a loyal worker he has carried out the order of transfer, though under protest. The applicant expects that by compassionate consideration the request for retention of the quarter will be allowed to save the loss of one academic year to his child. It will not affect the service in any way. Learned counsel is of the view that if this prayer is rejected, the respondents will project their action as a fait accompli and also not show any interest in a decision of this case on merit. Therefore, keeping these interests of the applicant in view the Tribunal should take a compassionate view and allow the request for interim prayer.

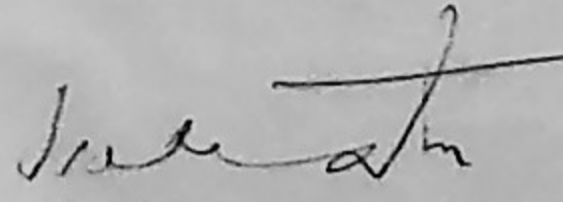
4. I have considered the rival arguments regarding the point made by the respondents that unless the applicant vacates the old quarter, the new incumbent couldn't move in, the learned counsel for the applicant says that the new incumbent has already been provided with a quarter. Against this the learned counsel for the respondents says that this quarter has been provided only on a temporary basis. The quarter is not for the TDM and this arrangement cannot be allowed to continue without depriving somebody else who is entitled to get a quarter. Learned counsel for the respondents also stated that the plea taken by the applicant that study of the child will be affected is an eye wash. The child is less than 03 years and, therefore, there is no such question. Learned counsel for the applicant, however, intervened to say that the child was already 03 years of age.

5. It may be disputed whether this transfer is going to cause one academic year of the child of the applicant to be wasted. The respondents have tried to say that it will not affect his study. They have also pointed out that there is no other compelling reason to grant the interim relief to the applicant. I have, however, pondered over of the arguments of the applicant in favor of the interim order. Argument contained in

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para 3 (e) above is quite pertinent in this respect. Indeed the out come of the case when it is examined on merit cannot be predicted now. If pending such decision interim prayer is granted for a short time that will compel both parties to make their respective submission in a short time for a final decision. Keeping this view, I direct that the applicant may be allowed to retain the quarter up to the end of December 2007. The respondents are given a maximum of three weeks time to file their detailed counter. One-week time is granted to the applicant for filing the rejoinder. This case will be heard and disposed of on the basis of these two submissions and the parties will not insist on filing more submissions. The OA shall be listed for final hearing on 14.12.2007. If it is found that the decision is delayed due to evading attitude of the applicant, stay will be vacated after 31.12.2007. If the OA is not finalized/ due to any action/delay on the part of the respondents, appropriate orders on the stay have to be issued.

List on 14.12.2007.


Member-A

RKM/