

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 144 of 1987 ~~100~~  
~~XXXXXX~~ and  
O.A. No. 164 of 1987 ✓

DATE OF DECISION 25/09/1987

Shri M.V. Sunavat Petitioner

Shri Y.A. Mithawala

B.B. Naik Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

J.D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI : VICE CHAIRMAN

The Hon'ble Mr.

JUDGMENT

OA/144/87  
and  
OA/164/87

25/09/1987



Per : Hon'ble Mr P H Trivedi : Vice Chairman

We heard both these cases together as the essential facts and circumstances of the cases and the points to be decided are identical. The applicants claim that their appointment makes them liable to serve in the Amreli Unit from which they cannot be transferred out-side as sought by the impugned orders dated 24/02/1987 in OA/144/87 and dated 31/3/1987 in OA/164/87. The respondent has sought to transfer the petitioners from Telecom District Engineer, Amreli to Telecom District Engineer, Junagadh. The petitioners claims that by memo dated 15/10/1986 which reads as follows, the liability for transfer is to be restricted to the specific unit of Amreli. The relevant instructions read as under :-

RECRUITMENT-TRANSFERS AND POSTING

"Recruitment for all cadres for the entire Secondary Area will be done by the Telecom District G.V./District Manager/District Engineer, According to schedule of powers and, all the new recruits including departmental candidates will have transfer liability over the whole Secondary area. The existing staff of the erstwhile Telephone District and Telegraph Engineering Divisions will also have transfer liability over the entire Secondary Switching Area, but to avoid hardship to the individuals, such liability for those recruited already to the specific units may be confined only to those units as far as possible taking into consideration individual options. Officials coming under Rule-38 transfer; and those recruited afresh both departmental and out-siders, will, however, have full transfer liability over the whole area."

The petitioners contend that some surplus staff from Junagadh Unit has been brought to Amreli Unit and the petitioners are sought to be sent to the Junagadh District although persons junior to them are retained

at Amreli as also persons senior to them are retained at Amreli. The persons brought from Junagadh District are also retained at Amreli. The respondent authorities, therefore are not following the principle of transferring from Amreli Unit in that term persons on the basis of either the senior-most or the junior-most to be transferred or on the basis of those who have been brought from Junagadh to be transferred first.

2. The respondent contends that transfer is an incident of service and in matters of transfer this Tribunal has no jurisdiction. The Amreli Revenue District included three sub-divisional offices at Veraval and as such the applicants were transferable even according to their stand to stations in the Junagadh District as these sub-divisional offices were under District Telecom Engineer, Amreli. Option for willingness for transfer were called for and willing persons were first transferred and only thereafter junior-most persons are being transferred and the applicants have been transferred on that basis. The department, therefore, is following the policy of first transferring willing persons who have given options and then transferring persons who are junior-most. The re-organisation of the division and district has been done due to the scheme of Secondary Switching Area (SSA) which has made some resultant transfers necessary. A policy circular dated 01/04/87 states that it is inevitable that some staff transfers have to take place. As a result, it has been decided in such circumstances that some junior-most in the recruitment unit may be transferred out of the Recruitment unit and that these instructions supercede the instructions dated 9-11-1986. This instruction dated 9-11-1986 has not been produced. The respondents also states that people are not brought from Junagadh Revenue District because they were surplus, but because the Head Quarters was changed due to re-organisation.

3. After hearing the learned advocates Mr. B.B. Naik for the applicants and Mr. J.D. Ajmera for the respondents in both the cases, we find that the respondent has followed a well conceived and just policy in the matter of ordering the transfer. The circular dated 15/10/1986 on which the petitioners rely, lay down that the existing staff will have

transfer liability over the entire Secondary area. The instructions to avoid enforcing transfer liability out-side the recruiting unit is a concession merely for avoiding hardship and is to be observed as far as possible taking into account individual options. The respondents, therefore, had called for options and first resorted to willing persons for effecting transfers. Only when that has been insufficient, the respondents have taken the basis of the junior-most persons being transferred out-side the recruiting unit. The applicants have not shown specifically how their claims stand vis-a-vis individuals who are junior to them who are retained at Amreli. They are free to file representations to the respondent authorities pointing out specific instance of persons junior to them who are retained at Amreli. The applications do not disclose these details except a bare statement that persons junior are being retained at Amreli.

4. In the result, the applications fail. Interim relief earlier given is terminated.

There shall be no order as to costs.

Sd/-

( P.H. TRIVEDI )  
VICE CHAIRMAN.

O.A./164/87

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Coram : Hon'ble Mr P Srinivasan .. Administrative Member  
Hon'ble Mr P M Joshi .. Judicial Member

29/6/1987

Mr BB Naik, learned counsel for the applicant present. Mr PN Ajmera for Mr JD Ajmera for the respondent also present. Mr Naik wants that this matter may be fixed on 9/7/1987 alongwith O.A./144/87 which is ~~conducted~~ <sup>concluded</sup> matter. Allowed. Adjourned to 9/7/1987. Interim relief already granted to continue till that day.

08/06/87

( P Srinivasan )  
Administrative Member

J

( P M Joshi )  
Judicial Member