

Transcribed (No)

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 477 of 1989
~~Case No.~~

DATE OF DECISION 11.2.1992

Shri Vithalbhai Ranabhai Buva Petitioner

Shri B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri B.B. Naik Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Shri Vithalbhai Ranabhai Bhuva,
TB-3/5 P&T Colony,
Near S.T. Workshop,
Rajkot-360 004.

.. Applicant

Versus

1. Union of India,
Through :
The Chairman,
Telecom. Commission,
Daktar Bhavan,
New Delhi-110 001.
2. General Manager,
Telecom. District,
Rajkot.

.. Respondents

O.A. No. 477 of 1989

O R A L - J U D G M E N T

Present : Mr. B.B. Gogia, learned advocate
for the applicant

None present for the respondents

Date : 11.2.1992

Per : Hon'ble Mr. R.C. Bhatt .. Member(J)

This application is filed by the applicant,
As per my
a Telephone Operator in the Trunk Manual Exchange
of the respondents at Rajkot, challenging his order
of transfer issued by respondent No. 2 dated 7th
September, 1989 Annexure A-1 by which six Telephone
Operators including the applicant were transferred
from Rajkot, but so far as four transferred Telephone
Operators including the applicant were concerned,
they were transferred out side Rajkot while remaining
two were transferred in another department at Rajkot.

The impugned order Annexure A-1 shows that the transfers

were made in the interest of service. The grievance of the applicant is that though normally he is liable to be transferred, the seniority being the only criteria, the junior most official in the gradation list has to be transferred and the reference is made in the application to a circular dt. 25th November, 1988. This circular, if read carefully, applies to transfer of surplus staff. Learned advocate Mr. Gogia for the applicant submitted that if the applicant was among the surplus staff, then junior most should ~~be~~ have been first transferred. The applicant attached at Annexure A-2 the list of Telephone Operators ~~which is inclusive of~~ working at Rajkot ~~and~~ junior to the applicant but reading it, it is not found ~~that~~ how this statement is prepared and from which list it is prepared. The Annexure A-3 produced by the applicant is the gradation list and learned Advocate Mr. Gogia submits that the extract A-2 is taken from the list A-3. Therefore, his submission is that the transfer is bad in law because while the juniors are retained, the applicant who is senior is being transferred. The applicant has made a representation Annexure A-4 stating therein the circumstances of his family and has requested that the transfer be cancelled.

2. The respondents have contended that the instruction reproduced by the applicant in his

application is not a statutory rule and the same instructions are applicable to the cadres for which there is reduction/abolition of post or bifurcation of jurisdiction and hence in this case, the question of a senior or junior does not arise. It is contended that the transfer was made in public interest and was neither discriminatory, nor arbitrary, nor with any malafide intention.

3. The applicant has filed affidavit in rejoinder stating therein that after this application was filed, the respondents have retransferred three persons viz. M/s. M.T. Lathia, K.P. Rai and P.M. Bhatuk and the applicant alone is left out and not transferred and that amounts to discrimination. In the instant case, the main reliance is put on the instruction reproduced by the applicant in his O.A. in which the circular dated 25th November, 1988 is reproduced. Apart from the fact that the circular is not statutory rule, the applicant has not established that the transfer is made because he being surplus staff. The applicant is admittedly a regular employee and merely because some of his juniors are not transferred and he is transferred, will not vitiate the transfer order, unless the impugned transfer was tainted with malafide and against statutory prohibition. Therefore, there is no reason to quash the impugned transfer. However, the fact which has

re by
been brought to my notice ~~of~~ learned advocate Mr. Gogia is that after this O.A. was filed three persons out of that composite order of impugned transfer have been brought back to Rajkot and the present applicant has not been retransferred. This fact requires to be considered by the respondents. Hence to that extent this application is allowed.

O R D E R

Application is partially allowed. The impugned order of transfer is held legal but the directions are given to the respondent No. 2 to reconsider the question of retransfer of the applicant to Rajkot in view of the fact that three Telephone Operators M/s. M.T. Lathia, K.P. Rai and P.M. Bhatuk who were among the impugned transfer order, have been retransferred to Rajkot. The respondent No. 2 may decide ~~this~~ ^{re before} as ~~from~~ ^{to} the rules the above direction within three months from the receipt of this judgment. Application is disposed of with no orders as to costs.

R C Bhatt
(R C Bhatt)
Member (J)

Central Administrative Tribunal Ahmedabad Bench.

Application No. CA/477/88 of 199

Transfer Application No. _____ Old Writ Pet. No. _____

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 11/3/92

Countersigned:



Section Officer/Court Officer.


Signature of the
Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX SHEET

CAUSE TITLE OA/477/89. OF 198.
NAMES OF THE PARTIES Shri. V.R. Bhuvan.
VERSUS
C.A. J. & Ors.

PART A B & C

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2	Documents filed.	7-13
3.	Reply.	14-17
4.	Replies.	18-19
5.	Orders dt. 30/1/90, 6/3/90,	
6.	Judgment dt. 11/2/92.	

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Submitted :

C.A.T./JUDICIAL
SECTION.

Original Petition No. : 477 of 89.

Miscellaneous Petition No. _____ of _____.

Shri V R Bhuva Petitioner(s).
Versus.

Union of India Respondent(s).

This application has been submitted to the Tribunal by Shri B B Gogia under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application ~~has~~ not been found in order for the ~~same~~ reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days. Draft letter is placed below for signature.

8/11/88
SRI
Asst
to
AIA
We may fix date for admission
on 5/12/88, as date had already
informed to Mr. B.B. Gogia, com.
for applicant.

Oppn
8/11/88.

Officer
8/11/88

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BANCH

APPLICANT (S) V R. BhuraRESPONDENT(S) Union of India

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO
RESULT OF
EXAMINATION.1. Is the application competent ? *y*2. (A) Is the application in
the prescribed form? *y*(B) Is the application in
paper book form? *y*(C) Have prescribed number
comlete sets of the
application been filed? *y*3. Is the application in time? *y*If not, by how many days is
it beyond time? *-*Has sufficient cause for not
making the application in
time stated? *-*4. Has the document of authorisation/
Vakalat Nama been filed? *y*5. Is the application accompanied by
B.D./I.P.O. for Rs.50/-? Number of
B.D./I.P.O. to be recorded. *DD 22731*
*6*6. Has the copy/copies of the order(s)
against which the application is
made, been filed? *yes (Anne A1 P7)*7. (a) Have the copies of the documents
relied upon by the applicant and
mentioned in the application
been filed? *y*(b) Have the documents referred to
in (a) above duly attested and
numbered accordingly? *y*(c) Are the documents referred to
in (a) above neatly typed in
double space? *y*8. Has the index of documents has been
filed and has the paging been done
properly? *y*

88222

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ? *Y*
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ? *Y*
11. Are the application/duplicate copy/spare copies signed ? *Y*
12. Are extra copies of the application with annexures filed.
(a) Identical with the original.
(b) Defective.
(c) Wanting in Annexures
No. _____ Page Nos. _____
(d) Distinctly Typed ? *Y*
13. Have full size envelopes bearing full address of the Respondents been filed ? *Y*
14. Are the given addressed, the registered addressed ? *Y*
15. Do the names of the parties stated in the copies, tally with those indicated in the application ? *Y*
16. Are the transactions certified to be true or supported by an affidavit affirming that they are true ? *Y*
17. Are the facts for the cases mentioned under item No.6 of the application.
(a) Concise ?
(b) Under Distinct heads?
(c) Numbered consecutively?
(d) Typed in double space on one side of the paper ? *Y*
18. Have the particulars for interim order prayed for, stated with reasons ? *YB*

*checked
M/s a
4/11/19*

Urgent Note

Before Registrar,

Hon'ble C.A.T A.I.D.

OM 477/89

Vithaldas. R. Bhave

Alib.

No.

Applic.

Govt of India & its off.

Dear Sir,

In the above referred
matter, the applicant needs
urgent relief. It is requested
to kindly fix it on earliest
convenient date. Yours faithfully

DMR.P.

Alibad

7-11-1989.

(B.B. Gajjar)

Also sent

Hd^r After Verification the
matter be per order issued
per m/s. Ch 9/11/89

Probable Dr 5/89.

Sl-^{513/89}
7/11/89
BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 477 189

Shri Vithanbhai Ranabhai Bhuva,
P&T Colony,
RAJKOT

:: APPLICANT

versus

Union of India & one another

:: RESPONDENTS

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03. A/2	A list of Telephone Operators continued at Rajkot, who are junior to the applicant showing the serial numbers in the gradation list along with the Sr.No. of the applicant also in the gradation list	08
04 A/3	Copy of gradation list notified vide No. E-138/GL/ dated -8-88 by the PA(E) o/o TDM KJK Rajkot	09 - 12
05 A/4	Representation dated 15.9.1989 submitted by the applicant to the General Manager, Telecom. Rajkot	13

Rajkot/Ahmedabad

Date: 7/11/89


(APPLICANT)

for the use in the Tribunal Office

Date of filing

or

Dt of receipt by post

Registration No.

Signature
for Registrar

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AMMEDABAD

ORIGINAL APPLICATION NO: 477 /89

Shri Vithalbhai Ranabhai Bhuva,
Hindu, Adult, Aged about 34 years,
Occupation: Service,
No.TB-3/5, P&T Colony,
Near ST Workshop,
RAJKOT - 360 004

:: APPLICANT

Versus

1) Union of India
Through: Chairman,
Telecom. Commission,
Daktar Bhavan,
NEW DELHI - 110 001

2) General Manager,
Telecom. District,
RAJKOT

:: RESPONDENTS

DETAILS OF APPLICATION

1. Particulars of the order against which the application is made.

i) Order No. : Staff.32/A/131
ii) Date : 07.9.1989
iii) Passed by : Asst. General Manager (ADMN)
: Office of General Manager
: (Telecom), Rajkot Telecom.
: District, Rajkot
iv) Subject in brief : Transferring the applicant
: from Rajkot.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act. 1985.

4. Facts of the Case

The applicant begs to submit as under:-

i) The applicant is working as Telephone Operator in the Trunk Manual Exchange at Rajkot. There has been proposal to reduce the strength of Telephone Operators from the Trunk Manual Exchange, Rajkot from the strength of 168 to about 135 or so. The respondents are called upon to bring on the records of the honourable Tribunal the correct figures of the staff to be reduced.

ii) The applicant has been ordered to be transferred from the said Trunk Manual Exchange Rajkot to Dhoraji by the order dated 7.9.1989, as referred to above, copy of which is annexed herewith as Annexure A/1

iii) The applicants submit that there has been statutory rules framed by the respondents in exercise of statutory powers in the matter of surplus staff to be transferred in terms of circular No.DOT 256-25/86-STN dated 25th November 1988, which is reproduced below:

"In supersession of this office circular letters of even No.dt.1.4.88 and 27.5.88 on the subject subject it has been decided that the following criterion will be followed for transfer of surplus staff.

For transfer of surplus staff, whether from one recruitment unit to another or within the same recruitment unit, seniority would be the only criterion, junior most official in the gradation list."

Therefore though the petitioner is normally liable to be transferred, in the present situation the seniority being the only criterion the junior-most officials in the gradation list has to be transferred. This is the requirement of the rule, which has to be followed by the respondents.

A/2

iv) According to the gradation list the petitioner is not the junior-most employee to be transferred. Names of junior employees and their seniority Number in the gradation list are annexed in the form of a statement attached as Annexure A/2. Against these juniors, the name of the applicant is at Sr.No. 04. Copy of the gradation list is annexed herewith as Annexure A/3 to prove the fact that the petitioner is not the junior-most in the said list.

A/3

v) The petitioners therefore submit that ~~the~~ discriminated and arbitrarily dealt with malafidely ^{him} with intention to punish ~~them~~ in contravention of the statutory rules. When the transfers have become necessary in the situation that staff having been surplus and transfer has become necessary for that reason the transfer has to be resorted to as ~~the~~ per the rules framed.

vi) The petitioner draws the attention of the Hon'ble Tribunal to a judgement delivered by the honourable Allahabad High Court, Lucknow Bench in Writ Petition No. 1083 of 1971 between B.L.Rastogi & others and the Railway Board reported in 1974 LIC 918 (v 7 b 209), the relevant portion is as under:

"Brief Note:-(A) An order of Railway Board to the effect that junior-most employees should be transferred first in the event of curtailment in a cadre as a general rule being an order of general application to the non-gazetted railway servant under Board's control has to be treated as a rule framed under para 157 and not as a mere administrative instruction. Hence transfers made in contravention of the order is illegal."

vii) The petitioner submits that in fact there is no interest of service involved in the transfer order. The interest of service involved is only the surplus staff have to be transferred. For that situation the

the principle of last come first go i.e. the well-known industrial principle has been adopted by the rule making authorities. Therefore there is no scope whatsoever to depart from the said rule. Even merely asserting that transfer to be in public interest is not sufficient and it does not validate the transfer order is also a well-known principle decided by the judicial decisions by the honourable Tribunal. The petitioner in this connection draws the attention of the honourable Tribunal to the decision made by the honourable CAT Madras Bench in case of Alexandar Kurian V/s Director General, Marine Fisheries Research Institute decided in October 1987 in OAK 176/87 deciding the principle that mere a assertion by the Govt. that transfer is in public interest does not validate the transfer unless there are specific grounds to support it.

viii) The petitioner therefore is aggrieved that the order dated 7.9.1989 produced at Annexure A/1 which is arbitrary and punitive in nature. The petitioner submits that the order is also without jurisdiction since the authority is not within the jurisdiction under rules to pass such orders.

ix) The petitioner submits that he had represented to the Respondent No.2 praying for cancellation of the transfer order. However he has not been replied as yet. Copy of representation dated 15.9.1989 by the applicant is annexed herewith as Annexure A/4.

5. Grounds for relief with legal provisions

- i) The transfer order is arbitrary
- ii) The order is in violation of the rules of the Deptt. as reproduced herein before.
- iii) Order is malafide and without jurisdiction.

5

6. Details of the remedies exhausted

The applicant declares that he has no remedies available according to the statutory rules of the respondent deptt.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought

- A) It may be declared that the order of transfer issued by the Respondent No.2 vide his order No. Staff.32/A/131 dt. 7.9.1989 transferring the applicant from Rajkot to Dhoraji is illegal in-effective, arbitrary and null and void. It may also be declared that the applicant continues in his present post with all benefits such as pay & allowances, seniority etc.
- B) Any other better relief or reliefs as deemed just and proper by the honourable Tribunal in view of the circumstances of the case may also please be granted to the applicant.

9. Interim order if any prayed for

The operation and/or the further operation of the impugned order No. Staff.32/A/131 dated 7.9.1989 transferring the applicant from Rajkot to Dhoraji may please be stayed by directing respondents to permit the applicant to discharge his duties at Rajkot.

10. In the event of application being sent by Regd. post it may be stated whether the applicant desires to have oral hearing at the admission stage and if so,

he shall attach a self-addressed Post Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

NOT APPLICABLE.

11. Particulars of Postal Order filed in respect of the application fee.

1) No. of Indian Postal Order(s) : DD 227317
 2) Name of issuing Post Office : Tn., Plot P.O.
 3) Dt. of issue of Postal Order(s) : 2-11-89
 4) Post Office at which payable : Ahmedabad

12. List of enclosures

1) Postal Order as per para 11 above
 2) Vakalatnama
 3) Copies of documents from annexure A/1 to A/4

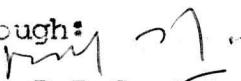
VERIFICATION

I, Vithalbhai Ranabhai Bhuva, son of Ranabhai aged about 34 years, working as Telephone Operator in the Trunk Manual Exchange, Rajkot, resident of Rajkot do hereby verify that the contents of paras 1 to 3 and 6 to 12 are true to my personal knowledge and paras 4 to 5 believed to be true on legal advice and that I have not suppressed any material fact.

Rajkot/Ahmedabad

Date: 7/11/89


(APPLICANT)

Through: 
 Shri B.B. Gogia,
 Advocate,
 RAJKOT

ruled by Mr. B.B. Gogia
 Learned Advocate for Petitioners
 with second set & 2 copies
 copy served/not served to
 other side

Mr. > 11/18 Dy. Registrar C.A.T.O
 A'bad Bench

Annex B/1

7

DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE GENERAL MANAGER TELECOM.DISTRICT, RAJKOT TELECOM.DISTRICT,
R A J K O T . 3 6 0 0 0 1 .

memo No. Staff.32/A/131

Dated at Rajkot.360001, the 7.9.1989

The following transfer orders to the cadre of Telephone Operators are hereby issued in the interest of Service.

1. Name of T.O.s. Working at present Transferred to
No.

1. Shri V.R.Bhuva .	T.M.X.Rajkot.	Dhoraji.
2. Shri M.T.Lathia.	T.M.X.Rajkot.	Jetpur.
3. Shri L.K.Rai.	T.M.X.Rajkot.	Jetpur.
4. Shri P.M.Bhutak.	T.M.X.Rajkot.	Gondal.
5. Shri R.M.Makwana.	T.M.X.Rajkot.	Aji Exge., Rajkot.
6. Shri H.G.Homani.	T.M.X.Rajkot.	K.R.Exge., Rajkot.

The officials may please be relieved with immediate effect. Since said transfer is in the interest of Service, they are entitled for T.A., T.P. etc.

Sd/- (J.I.Vasavada)

Asstt. General Manager (ADMN)

General Manager Telecom. District,
Rajkot Telecom. District, Rajkot.1

C.C. to:

1. Shri R.N.Singh, D.E.Trunks, T.M.X., Rajkot (with 6 spare copies for Officials)
2. S.D.P.Jotpur/S.D.O.T.Dhoraji/S.D.O.T.Gondal/A.E.Aji BKNR/A.E.MDF KR Exchange, Rajkot.
3. S.S. A&P Section/%GMTD Rajkot.
4. Accounts Officer (Cash) % G.M.T.D., Rajkot.
5. File No. Staff.32
6. Personal Files of the Officials concerned.
7. Guard File.

Y082116

(P.L.SAMANT) 715

Asstt. Engineer (Admn)

General Manager Telecom. District
Rajkot Telecom. District, Rajkot.1

True Copy

Advocate

8

ANNEXURE A/2

List of Telephone Operators working at Rajkot and junior to the Applicant, Shri V. R. Bhuva

Sr.No. of Gradation List.	Names of telephone Operators
---------------------------------	------------------------------

04	Shri V. R. Bhuva (Applicant himself)
14	Shri D. C. Raja
24	Shri D. M. Makwana
27	Shri N. C. Mehta
29	Smt. B. B. Shah
40	Shri V. R. Vyas
48	Shri P. K. Thakkar
50	Mrs. Pandy a I. A.

True Copy

Pratap Patel
Advocate

Anneau A/3

3

DEPARTMENT OF TELECOMMUNICATIONS

3200

Telecom District Manager,
Rajkot-360 001.

To :

All D.E.s/ SD.O.s

No. E-133/GL/

Dated at Rajkot the -3-88-

Sub : Gradation List of Permanent T.O.s and seniority
List of Temporary T.O.s as on 31-7-88

Gradation List of Permanent T.O.s and Temporary seniority list of T.O.s as on 31-7-88 of Rajkot Telecom District has been prepared and is forwarded herewith. This may be brought to the notice of all concerned.

Any inaccuracy in the particulars given in Gradation List and Temporary Seniority List may be intimated to this office so that necessary correction can be made.

Representation regarding the fixation of seniority, if any may be forwarded alongwith your comments as early as possible in any case not later than 30-9-88.

Kindly acknowledge the receipt.

(D. H. KHOLIA)
P. A. (E),
o/o TDM, Rajkot.

True Copy

Advocate.

Sl. No.	Name of T.O.	Whether S/C/S/T	Date of Birth	Date of Appointment	Whether Ty./QP.	Dt. of Prom. as SGTO	Remarks.
1.	Shri B. R. Kageda	-	25-5-58	19-2-81	-	-	Unfit for Pmtt.
2.	" J. C. Nathwani	-	1-6-58	13-12-81	-	-	----do----
3.	" R. M. Makwana	S/C	5-1-58	23-2-78	Q.P.	-	----do----
4.	" V. R. Bhuva	-	24-3-53	8-7-76	Q.P.	-	----do----
5.	" N. R. Shingadia	-	10-9-56	19-12-76	Q.P.	-	----do----
6.	" K. V. Vora	-	29-1-58	6-7-79	-	-	----do-- (Case under Resignation)
7.	" J. M. Mavari	-	10-1-59	25-12-79	-	-	----do----
8.	" D. G. Solaraki	-	28-7-56	26-6-80	-	-	----do----
9.	" I. K. Chaurasiya	-	5-6-54	26-12-80	QP as Gateman	-	----do----
10.	" P. G. Chevda	-	23-9-57	17-2-81	-	-	----do----
11.	" T. A. Aghera	-	6-3-58	18-2-81	-	-	----do----
12.	" D. R. Karu	-	1-12-58	18-3-81	-	-	----do----
13.	" D. M. Karawadia	-	26-9-58	1-4-81	-	-	----do-- (Case under Resignation)
14.	" D. C. Raja	-	1-7-48	25-7-69	SGTO	-	----do-- ----do----
15.	" C. C. Kortia	-	8-9-56	18-8-81	Pmtt. As L/M	-	Unfit for Pmtt.
16.	" H. S. Ozia	-	12-12-57	18-8-81	QP As W/M	-	----do----
17.	" N. G. Parmar	S/C	18-12-57	14-6-80	-	-	(M/T Trd. with Shri K. D. Joshi DET RJ W.e.f. 1-4-82)
18.	" Nooruddin Ansari	✓	17-3-57	22-10-81	-	-	----do----
19.	" D. K. Raval	-	23-9-59	13-2-81	-	-	(M/T Trd. with Miss U.K.Rana DET RJ)
20.	Miss. D. J. Kansagra (Miss B. A. Bakoni)	-	10-11-61	5-4-82	-	-	----do----

16

1.	2.	3.	4.	5.	6.	7.	8.
21. Mrs. K. A. Ajmera (Miss K. D. Vyas)	-	17-8-60	18-4-82	Q.P.	-		
22. Shri B. Sidhdhpara	-	20-10-62	18-4-82	Q.P.	-		
23. Mrs. F. A. Balat	S/T	1-6-54	18-4-82	Q.P.	-		
24. Shri D. M. Makwana	S/C	12-4-51	16-11-77	Pmtt. as T.O.			
25. " J. D. Gungala	-	13-9-59	19-7-82	Q.P.	-		
26. " D. N. Kharsani	-	4-7-58	19-7-82	Q.P.	-		
27. " N. C. Mehta	-	5-9-62	19-7-82	Q.P.	-		
28. " B. M. Vyse	-	5-9-62	1-9-82	Q.P.	-		
29. Smt. B. B. Sheh	-	19-11-48	11-10-71	1-3-75 Pmtt. by DET JMN	SGTO		
30. Shri O. N. Zannar	-	22-2-55	5-11-76	Q.P.	-		
31. " D. M. Bhanvadie	-	5-10-58	5-10-82	Q.P.	-		
32. " K. V. Mulia	-	5-8-61	5-10-82	Q.P.			
33. " A. P. Rangpari	-	30-3-61	5-10-82	Unfit for Q.F.			
34. " B. D. Baldha	-	15-6-55	30-10-74	1-3-82 Pmtt. by DET JND			
35. " R. K. Karelia	-	1-6-52	20-2-72	1-3-75 Pmtt. by DET JND			
36. " B. D. Jaiswal	-	7-4-50	8-10-71	1-3-75 Pmtt. by DET JMN			
37. Mrs. M. V. Parmar	-	25-9-59	1-12-82	Q.P.			
38. Shri R. D. Parmar	S/C	20-11-58	1-12-82	Q.P.			
39. Mrs. S. G. Dodia	-	11-11-58	1-12-82	Q.P.			
40. Shri V. R. Vyas	-	8-7-61	1-12-82	Q.P.			
41. " E. P. Bapodaria	-	28-3-59	1-12-82	Q.P.			
42. " A. K. Parkhi	S/C	20-6-59	1-12-82	Q.P.			
43. " H. S. Jani	-	8-10-58	1-12-82	Q.P.			
44. " N. K. Jethava	S/C	1-3-57	1-12-82	Q.P.			
45. " N. I. Parmar	-	28-8-58	1-12-82	Q.P.			

46.	Shri A. P. Makwana	-	1-1-58	1-12-82	Q.P.
47.	" A. O. Dal	-	10-6-60	1-12-82	Q.P.
48.	" P. K. Thakkar	-	21-10-62	1-12-82	Q.P.
49.	" M. N. Bhindora	-	22-5-61	1-12-82	Q.P.
50.	M.P.S. I. A. Pandya	-	1-3-60	5-2-80	Temp.
51.	Shri A. S. Jott	-	22-2-50	27-2-83	Pmtt. As W/M
52.	" A. L. Chotalia	-	30-1-55	27-2-83	Pmtt. As L/M
53.	" D. H. Raval	-	10-10-54	27-2-83	Pmtt. As L/M
54.	" L. J. Zala	-	29-8-53	27-2-83	QP as L/M
55.	" N. J. Rai	-	1-2-61	27-2-83	QP.
56.	" N. P. Raval	Ex S/M	25-5-56	27-2-83	QP.
57.	" D. M. Parghi	S/T	17-6-63	27-2-83	Q.P.
58.	" R. S. Vaghela	-	11-5-64	27-2-83	Q.P. 27-2-86
59.	" Quimuddion Ansari	-	15-4-53	1-3-83	QP as L/M
60.	" A. S. Vaghela	-	30-4-56	1-3-83	QP as Peon
61.	" K. P. Singh	-	5-1-56	1-3-83	QP as L/M
62.	" K. M. Adesara	-	19-4-45	1-3-83	QP as Peon
63.	" M. B. Joshi	-	9-12-60	1-3-83	QP
64.	Miss K. D. Joshi	-	20-11-59	1-3-83	Q.P.
65.	Shri K. P. Mehta	-	19-10-62	1-3-83	Q.P.
66.	" M. K. Rupapara	-	30-9-60	1-3-83	Q.PP
67.	" D. J. Lotia	-	15-3-64	1-3-83	Q.P.
68.	" D. L. Kapta	-	24-9-61	1-3-83	Q.PI
69.	" B. K. Shah	-	18-9-61	1-3-83	Q.P.
70.	M.P.S. A. H. Jani	(Miss A. J. Raval)	21-11-61	1-3-83	Q.P.

True Copy

M

Advocate

12

From:- V.R. Bhoova,
 T.O. TMX Rajkot,
 DR/ISAF
 To :- The General Manager Telecom District
 Rajkot District Rajkot, 360 001.

(Through proper channel)

Sub:- Request for cancellation of transfer.

R/Sir,

I, the undersigned, V.R. Bhoova, T.O. working in T.M.X.
 J.B.Ex.Rajkot,

That vide your No. Staff.32/A/137 dated 7-9-89, I am
 under transfer to Bhograji. Although I am on leave on medical
 ground, orders are not served to me.

I have to most respectfully submit to your kind honour
 that my family circumstances do not permit me to carry out the
 orders of transfer. These are as follows:-

1. My wife is pregnant and delivery due date is in very short period. Medical certificate is attached.
2. My aged parents are alongwith me and my mother is also bed-ridden for quite some time. She is also under medical treatment. I may submit the certificate if it is essential for office records.
3. Also I understand that this transfer is on account of surplus in TMX Rajkot. In this connection I am not due for transfer as I am not Junier most. Accordingly to latest D.O.T's order junier most official is to be sent out in case of SURPLUS.
4. Further, I may state that I am sure I have done nothing which may justify my family up-rooting transfer.

I under the circumstances, most humbly request your good-self to cancell my transfer at an earliest and relieve me of mental tension.

I shall be thankful to you if you oblige me.

Thanking you,

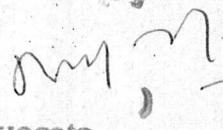
Yours faithfully,



(V.R. BHOOVA)

T.O. TMX RAJKOT

True Copy


 Advocate

DC
P.M.
Reddy
SC/PA

14

BEFORE THE CENTRAL ADMINISTRATIVE

TRIBUNAL AT AHMEDABAD.

477
O.A. NO. 477/89.

Bhuva.
V.R. Dhuva.

.. Applicant.

vs

Union of India
and others.

.. Opponents.

REPLY ON BEHALF OF THE
OPPONENTS.

I, the undersigned, B.N. Roy,

do hereby verify and state in reply to the
application as under.

1. I have read the application and perused the record and competent to file this reply. I do not admit such of the averments made in the application except which are specifically admitted by me and I hereby deny the same.
2. At the outset, it is submitted that the application is misconceived and not maintainable and deserves to be rejected. The applicant has not exhausted all other remedies available and therefore it is premature in view of section-20 of the Act. It is submitted that the applicant is

Copy sent to
MR. B.B. Gogia
Advocate

15-6-90

not entitled to any relief as prayed for. It is submitted that the applicant has challenged his transfer from Rajkot to Dhoraji vide the order dated 7-9-1989. It is submitted that transfer does not involve dispute regarding service matter. It is an incidence of service. It is submitted that therefore no interference is called for at the hands of this Hon'ble Tribunal.

3. Referring to para 4-I, it is true that the applicant was working as telephone operator in Trunk Manual Exchange at Rajkot. It is denied that there has been proposal to reduce the strength of telephone operator from Trunk Manual Exchange at Rajkot. It is submitted that the impugned transfer has nothing to do with the proposal.

Referring to para 4-II, it is true that the applicant has been transferred from Rajkot to Dhoraji by the order dated 7-9-1989.

Referring to para 4-III, it is submitted that the applicant has reproduced instructions issued by the department dated 25-11-1988. Same are not statutory rules. They are administrative instructions. It is submitted that the said instructions are applicable to the cadre-s for which there is reduction/abolition of post or bifurcation of jurisdiction. The applicant is liable to transferred anywhere in the district. It is submitted that question of senior or junior does not arise in the present case.

Referring to para 4-IV, it is submitted that the applicant is transferred in public interest and therefore gradation of the applicant of senior-junior does not arise.

Referring to para 4-V, it is denied that transfer of the applicant is discriminatory, arbitrary and with malafide intention to punish him in contravention of the statutory rules, as alleged.

Referring to para 4-VI, judgments referred to by the applicant have no relevance and bearing in the present case. It is submitted that in the present case, the applicant is not transferred on account of any reduction of staff or bifurcation of the unit.

Referring to para 4-VII, it is submitted that the applicant has been transferred on administrative ground and in the interest of service. It is submitted that in the matter of transfer, the Hon'ble Tribunal does not seat in appeal over the decision of the department. A court of law has no jurisdiction to interfere in the transfer matter. It is within the exclusive domain of the administrative authority. There is no question of applying any industrial principle in the matter of transfer. The judgment referred to by the applicant is not applicable in the present case.

Referring to para 4-VIII, it is denied that the impugned transfer order is arbitrary and punitive in nature as alleged. It is denied that the said order is without jurisdiction and authority as alleged.

4. Referring to grounds, same are legal contentions and are mere repetition of the foregoing paragraphs. Same are untenable and deserve to be rejected.

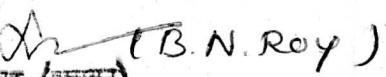
5. Referring to para-8, the applicant is not entitled to any relief as prayed for.

6. Referring to para-9, the applicant is not entitled to any interim relief as prayed for. There is no merit in the application and the same may please be rejected.

DATE:

12/6/80

AGM


(B.N. Roy)

नियोग विभाग (प्रशासन)
Assistant General Manager (Admn.)
O/o. G. M. T. D. RAJKOT - 360 001

I,

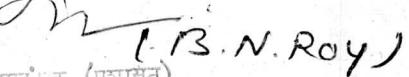

Shri B.N. Roy.

do hereby verify and state that what is stated hereinabove is true to my knowledge, information and belief and I believe the same to be true.

DATE:

12/6/80

AGM


(B.N. Roy)

नियोग विभाग (प्रशासन)
Assistant General Manager (Admn.)
O/o. G. M. T. D. RAJKOT - 360 001

Reply/Rejoinder/written submissions
filed by M: J. D. Joshi
Learned advocate for petitioner/
Respondent with second set.
Copy served/not served to other side

Dt 19/6/80 Dy. Registrar C.A.T. (O) 19/6/80
A'bad Bench

11/2

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD.

ORIGINAL APPLICATION No: 477 /1989

18

Shri Vithalbhai Ranabhai Bhuva,
Hundu, Adult, Aged about 36 yrs.,
Occ: Service,
~~Adm No.~~

Versus

(1) Union of India,
Through: Chairman,
Telecom. Commission,
Daktar Bhavan,
NEW DELHI : 110 001.

(2) General Manager,
Telecom District,
RAJKOT.

::RESPONDENTS.

REJC INDER - IN - AFFIDAVIT

I, Vithalbhai Ranabhai Bhuva, Adult,

*Copy made
to be served*
Copy made
to be served

say on solemn affirmation as under :

1) That I have read over the reply filed by the Respondents. I do not admit such of the averments made in the reply except those which are specifically admitted by me.

2) In answer to para-2 of the reply, it is not true that the transfer does not involve dispute regarding service matter. The statement made in para-3,4-I,to 4-VIII of the reply are not true and correct and are not admitted.

3) The applicant further submits that arbitrariness and discrimination on the part of respondents is

...2....

...2...

proved from further act committed by them by which the respondents have retransferred shri M.T.Lathia, Shri K.P. Rai, and shri P.N. Bhatuk back from Jetpur/Gondal to Telephone Manual Exchange, Rajkot i.e. ~~xxmex~~ on their original post within 3 months from the date of the impunged order of the transfer and that sincethan i.e. about Jan-1990 they are working in the office of T.M.E./Rajkot. All the 3 persons as referred to above are juniors to the applicant. The applicant alone is left out and is not retransferred to Rajkot. The applicant is being discriminated and arbitrarily dealt with, in this respect because he has filed the present petition and other three have not filed. There is no reason to not to consider the case of applicant for retransfere alongwith other 3 juniors as referred to above.

4) The applicant submits that there is no other interest of administration whatsoever in transferring him to Dhoraji and continue him there.

Rajkot

Dated: 6-2-1992.



(APPLICANT)

VERIFICATION

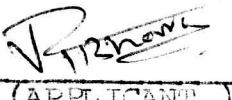
I, Vithalbhai Ranabhai Bhuva, aged about 36 yrs., working telephone Operator under the respondents, resident of Rajkot do hereby verify that the contents stated above in para 1 to 4 are true to personal knowledge and that I have not suppressed any material fact.

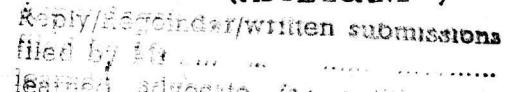
Rajkot/
Ahmedabad.

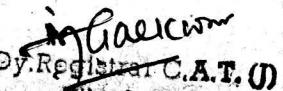
Dated: 6-2-1992.

Identified by 


Advocate, Rajkot.


(APPLICANT)

Reply/objection/written submissions
filed by 
Learned advocate for petitioner/
Respondent with second set
Copy served/not served & other side

61219 
Dy. Registrar C.A.T. (J)
Ahmedabad Bench