

NO.

Surplus/Transfer

(S)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH  
NEW DELHI

O.A. No.  
~~X~~ T.A. No.

344 fo

X98 1990

DATE OF DECISION 12.8.1991

Shri N.S. Rami

Petitioner

Mr. I.M. Pandya

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. Jayant Patel

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh

: Member (A)

The Hon'ble Mr. S. Santhana Krishnan

: Member (J)

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?

H.

Shri Narendrakumar S. Rami,  
G/60, 714, Shivam Appartments,  
New Vadaj,  
AHMEDABAD -380 013

(6)

: APPLICANT

(Advocate : Mr. I.M. Pandya)

VS.

1. Union of India, through  
The Chief General Manager,  
Telecom Circle,  
Ambica Chambers,  
AHMEDABAD -380 009

2. The Senior Superintendent,  
(Telegraphic Traffic)  
Ahmedabad Division,  
Lal Darwaja,  
AHMEDABAD -380 001.

: RESPONDENTS

(Advocate : Mr. Jayant Patel)

CORAM : Hon'ble Mr. M.M.Singh

: Member (A)

Hon'ble Mr. S.Santhana Krishnan

: Member (A)

O R A L - P R E C E R

O.A. No.344 of 1990

Dt.12.8.1991

Per : Hon'ble Mr.M.M. Singh

: Member (A)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is working as Telegraphist in the Department of Telegraph in Gujarat seeks relief of direction to respondent No.1 to transfer the applicant back to the office of Senior Superintendent (Telegraphic Traffic), Ahmedabad, and when transferred to this office he should be transferred only when his turn for transfer comes as the applicant is ~~is not~~ a permanent employee. Another relief wants us to hold that dated 2.1.1990 as illegal and unconstitutional.

2. We will consider the second relief first. The so called order dated 2.1.1990 is bound to be an intimation

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to the applicant that he has been rendered surplus on account of revision of establishment and directed him to submit declaration in the proforma enclosed in duplicate for transfer in the interest of service to Vadodara Telegraph Traffic Division against the existing vacancies on or before 17.1.1990. The letter proceeded to caution the applicant that in case he fails to submit the declaration within the stipulated period, action will be taken in accordance with the provision of C.C.S. Pension Rules, 1972 to retire him from service. The applicant was also warned that no further extension of time for submission of declaration will be allowed. In terms of this letter, the intimation by the respondents was to give an opportunity to the applicant to continue his service instead of being terminated from service on being rendered surplus and the respondents informed the applicant about the place where vacancies are available and accordingly asked for his declaration of readiness to accept posting in Vadodara Telegraph Traffic Division existing vacancy. We see no reason why such a well meaning letter issued by the respondents in the interest of the applicant in order to give him continuity of service instead of facing termination of service should be declared as illegal and unconstitutional. While on this subject, we should also say that there would be similar letters issued not only in the department of Telegraph and Traffic, but also in many other Departments to give opportunity to staff rendered surplus for absorption elsewhere instead of facing termination. If we declare such a letter as illegal and unconstitutional perhaps we will be opening all such offers made by well meaning employers for declaration to theirs being illegal and unconstitutional which will only jeopardize charges to staff rendered surplus and to face termination, thereby to get further long life in service. We therefore cannot declare the order as illegal and unconstitutional.

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3. Coming to the first relief, we are told during <sup>that</sup> the submission, is against the order dated 17.4.1990. This order is not challenged in the relief. However, this order strikes off the name of the applicant and one other mentioned in the order from the Muster Roll of Ahmedabad Division for transfer to North Telegraph Traffic Division, Ahmedabad under Rule 38 of P & T Manual Volume IV without mutual transfer. The order proceeds to stipulate that transfer order are issued under Rule 38 of P & T Volume IV at <sup>their</sup> own cost and request and that they are not entitled <sup>to</sup> T.A? and T.P. and joining time. When asked whether the applicant had given any such request for transfer, learned counsel for the applicant informed that instead of giving declaration in accordance with the offer made to the applicant vide letter dated 2.1.1990, the applicant applied showing his willingness for transfer to Mehsana. This implies that instead of facing termination by not accepting the post at Vadodara Division which was offered, the applicant requested the respondents to accomodate him in Mehsana because of which obviously it becomes a request to tranfer and not transfer in the interest of Administration. It is declared as illegal.

4. In view of this position we do not see any reason why even the first relief should be granted to the applicant.

5. At this, learned counsel for the applicant pressed for consideration of the applicant's case in accordance with Rule 38 (2) of Chapter 2 on the subject of Transfer and Posting figuring in P & T Manual Volume IV. This sub Rule refers to <sup>posting</sup> <sup>on</sup> seniority of the transfer. When the transfer is at the request of the employee but without arranging for mutual exchange and at what place in the

seniority list, he would <sup>in M</sup> at such an event figure and joins <sup>M</sup> at the new place of transfer or ~~transfer~~ the employee as requested. In the relief clause of the application before us, there is no prayer for quashing and setting aside the applicant's posting in the seniority list at Mehsana. In view of this, we cannot take this submission into consideration for any order.

6. <sup>the</sup> In view of the above, ~~application~~ is liable to be dismissed. We hereby do so. There shall be no orders as to costs.

  
(S. SANTHANA KRISHNAN)  
Member (J)

  
(M.M. SINGH)  
Member (A)

\*Ani.