

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 409/92
~~TRAP No.~~

DATE OF DECISION 07/10/1993

Shri Ambalal T. Patel **Petitioner**

Mr. Y. V. Shah **Advocate for the Petitioner(s)**

Versus

Union of India & Anr. **Respondent**

Mr. Akil Kureishi **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. N. B. Patel : Vice Chairman

The Hon'ble Mr. V. Radhakrishnan : Member (A)

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 ?

No,

Shri Ambalal T. Patel,
Govt. Telephone Line Man,
C/o. J.K. Ved, Hon: Secretary
General Workmen's Union,
CL Railway Colony,
Near Railway Hospital,
Godhra, 389 001.
Panchmahals.

: Applicants

(Advocate: Mr. Y. V. Shah)

Versus

1. Union of India
Represented by the Chief
General Manager (Telecom),
Gujarat Circle, having his
office at Navrangpura,
Ahmedabad-380 009.
2. Telecom Divisional Engineer,
Panchmahals, having office at
Bamroli Road, Godhra-389001.

: Respondents

(Advocate: Mr. Akil Kureshi)

ORAL JUDGMENT

IN

O.A./409/92

Date: 7/10/1993

Per: Hon'ble Mr. N. B. Patel

: Vice Chairman

The applicant seeks a prayer for having quashed
and set aside his transfer, affected by an order dated
10.2.1992, from Godhra to Lunawada.

2. The applicant has been working as a Lines-man under
Respondent No. 2, Telecom Divisional Engineer, Panchmahals
at Godhra. By an order dated 10.2.1992 (Annexure A-I),
he has been transferred from Godhra to Lunawada. By the
same order, one Shri S. P. Patel who was working as Line ~~man~~
~~at Vironia~~
till then, is transferred to Godhra vice the applicant.

In the application the applicant challenges the transfer

order, inter alia, on the ground that his transfer from Godhra to Lunawada was made not in public interest but only to accommodate and favour Shri Patel. It is also alleged by the applicant that, he was transferred from Godhra to Lunawada because he was the Branch Secretary of the employees' Union and the authorities were antagonized by his union activities. It is also alleged that the order of transfer is punitive in nature.

3. From the reply filed by the respondents, it appears that after the order dated 10.2.1992 was passed, the applicant had approached the Labour Court, Godhra by filing Miscellaneous Application No.38/92 and in that case he had obtained a status quo order. The respondents ~~had~~ have filed a reply in that case, and in that reply it was pointed out that ^{if was} neither to accommodate Shri S.P. Patel nor to victimise the applicant for his union activities that he was transferred. It was pointed out that the applicant was found to be tampering with STD lines so as to favour ~~as~~ certain persons monetarily at the ~~cost~~ of other customers ~~in~~ of the Telephone Department.

4. The first contention raised by Mr.Y.V.Shah on behalf of the applicant ~~was~~ is that the transfer of the applicant was not in public interest but was only an example of unfair labour practice adopted by the respondents. In this connection, he brought to our notice the fact that the applicant was elected as a Branch Secretary of the All India Telecom Engineering Employees' Union Class IV and Line staff Godhra on 31.1.1992 (vide page 8). It is noted above that the impugned transfer order ^{bears} ~~based~~ the date 10.2.1992 and the applicant has tried to make

and show that the transfer order was passed in the immediate wake of his election as Branch Secretary on 31.1.1992. However, R-VI (page 37) produced by the respondents, shows that earlier also the applicant was elected as an office-bearer of the Union. Thus, there is absolutely no basis on the record before us to connect the applicant's transfer with his activities as a Unionist. It is just coincidence that the applicant is an office bearer of the Union.

5. It is significant to note ~~in this connection~~ that, at the stage of arguments, Mr. Y. V. Shah, did not even refer to the averment in the application that the applicant was transferred just to accommodate Shri Patel. It appears to be an act of suppression of facts and ~~falsification~~ suggestion of ~~falsity~~ on the part of the applicant to refer to the transfer of Shri S. P. Patel and to say that he was himself transferred from Godhra to Lunawada just to favour Shri Patel. This is so, because in the reply filed by the respondents before the Labour Court ^{Henry} had clearly pointed out that the applicant had been put under transfer orders because it was found that he was indulging serious malpractice in respect of STD lines. It is significant to note that, nowhere in his application, the applicant has referred to this allegation which was levelled against him in the reply filed before the Labour Court as the basis for his transfer from Godhra to Lunawada. No dispute is raised about the fact that on 16.1.1992, a chargesheet was furnished to the applicant charging him with misconduct in respect of STD lines and alleging that he was tampering with STD lines so as to favour some customers at the cost of other customers.

It is also now not disputed that, consequent upon the chargesheet and the summary inquiry made against the applicant, he was found guilty of the charge and, by an order dated 7.2.1992, his increment was stopped for a period of three years without future effect. There is no dispute about the fact that the applicant's appeal against the punishment order is rejected. The respondents have frankly admitted that it was because of the misconduct committed by the applicant that he had to be transferred from Godhra to Lunawada i.e. from ~~his~~ station where STD facility is available to a station where STD facility is not available. The respondents say that it was absolutely in public interest and in the interest of maintaining the image of the department that the applicant was required to be transferred to a non-STD station so that he may not indulge in similar misconduct and is out of ~~the~~ harm's way. Mr. Shah's grievance is that the applicant should have been given an opportunity of putting forward his case against his transfer inasmuch as the transfer has ~~is~~ ^{given} ~~is~~ ^{is intended} a punitive element and as an opportunity was not given to him cannot be accepted for the simple reason that the applicant had ample opportunity to put forward his version against the charge in the summary inquiry which was launched against him. As far as the transfer of the applicant from Godhra to Lunawada in the circumstances is concerned, we have no hesitation in holding that it was absolutely necessary to transfer him to a non-STD station in public interest.

6. In the result, we find that the application is totally devoid of any merit and accordingly, we dismiss it without, however, any order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman