

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

ORDER DATED 28-2-2002.

The Applicant was continuing as a Technician in Berhampur Telecom Division when Annexure-4 was issued, for carving out of a new Division therefrom having headquarters at Phulbani. Under the said Annexure-4, dated 19.7.2000, a cut-off date was fixed (4.8.2000) requiring the members of the staff to exercise their option to go over to the newly carved out Phulbani Division. It was stipulated therein that unless sufficient number of personnel of Berhampur Telecom Circle exercise their option to go over to the new Phulbani Division, the junior most of each of the cadre shall be compelled to go over to the new Division. The Applicant who was the seniormost Technician of Berhampur Telecom Circle, did not exercise his option to go over to the new Phulbani Telecom Division, because he was confident of his position that he will not be disturbed in any event from Berhampur. In course of deployment of staff to exercise option in favour of Phulbani, as it appears, there was fall short in respect of Telephone Tech. Asst. post (TTO) i.e. a post next higher promotional post from the post of Technician. As a consequence, the junior most Telephone Tech. Assts. (as on 4.8.2000) in undivided Berhampur Division were to face transfer to new Phulbani Division. But instead of doing that the authorities filled up the vacant posts of TTO of undivided Berhampur Division by granting promotion to seniormost Technicians

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like the applicant during October, 2000; as a result of which the applicant became the juniormost TTA of undivided Berhampur Telecom Division. Thereby he was transferred to New Phulbani Division by order dt. 19.2.2001. Upon facing the said transfer order dated 19.2.2001, the applicant has raised a grievance in the present Original Application.

His sole case is that as on the cut off date fixed under Annexure-4 i.e. 4.8.2000, he was a seniormost Technician and as such, he was not available to be transferred to the new Phulbani Division. His further case is that in order to make him artificially juniormost in a cadre, just to transfer him out to the new Telecom Phulbani Division the entire exercise ^{were} made by promoting him in October, 2000 and transferring him to the new Division in February, 2001.

The grievance of applicant, as raised in the present case, is administrative in nature and unless violation of any statutory rules/guidelines is pointed out, this Tribunal ought not to interfere with such matters; although prima facie a heart burning case has been made out. May be there are heart burning but it can not be said to be a clear case of mala fide. Had the applicant not been given a promotion, then a junior Technician to him could have faced a promotion to the TTA post in new Phulbani Division ^{and in} that event the applicant also could have raised a question of mala fide.

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Therefore, the case of mala fide has really not been available ~~there~~ to be agitated. For a heart burning problem, the Court should not interfere and, therefore, there ^{are} ~~is~~ nothing ^{remains} to be adjudicated in this O.A.

Applicant, who is present in court, states that he has got lot of family problems including one relating to old-age ailment of his mother and he feels ~~so~~ much of pressure that he is ready to forgo the promotion he has received in October, 2000. Certainly an experienced person like him would not have felt to leave the job being sentimental. If he is so advised, he may represent to his authorities for redressal of his grievance for being posted within Berhampur Telecom Division. The Authorities while considering his grievance ^{his problem} may keep in mind and assure him to bring him back from Phulbani Division as and when TIA post shall be made available at Berhampur. The Authorities, ^{are} ~~is~~ competent to deploy/redeploy a staff, can mitigate the grievance of applicant more effectively, which I am sure they will do.

With these observations the OA is disposed of. No costs.

Yael
28/02/2002
(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)