

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No.268 of 2013

Cuttack, this the 3rd day of May, 2013

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

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Shri Anil Kumar Giri,
Aged about 47 years,
Son of Late Indramani Giri,
At-Berhampur,
Post-Ichhapur,
Dist.Bhadrak,
Residing at Plot No.7/260,
Milan Paradise,
Po-Sailashreevihar,
Bhubaneswar-21,
Working as SDE (Plg.),
Under GMTD,
Bhubaneswar,
Dist.Khurda.

....Applicant

(By Advocate(s): M/s.J.M.Pattanaik,C.Panigrahi)

-Versus-

Bharat Snachar Nigam Limited represented through -

1. The Chairman-Cum-Managing Director,
At-BSNL Bhawan,
Harischandra Mathur Lane,
Janapath,
New Delhi-110 001.
2. The Chief General Manager Telecom,



BSNL,
Odisha Telecom Circle,
Unit-III,
PMG Square,
Bhubaneswar

3. The General Manager,
Telecom District,
BSNL,
Doorsanchar Bhawan,
Unit-9,
Bhubaneswar.
4. The Telecom District Manager, Keonjhar.
5. Sri Manoranjan Dash,
SDE,
Office of General Manager (CM),
CMTS,
AT-BJB Nagar,
Bhubaneswar.

..... Respondents

(By Advocate: Mr.S.B.Jena)

O R D E R

(oral)

MR. A.K. PATNAIK, MEMBER (J):

The Applicant who is at present working as SDE (Planning) under GMTD, Bhubaneswar having been transferred vide order No. ST/101-01/2012 dated 8th April, 2013 as SDE against the vacant post under TDM, Keonjhar with further direction to look after the duty of AGM (N/W OP-CFA), Keonjhar, preferred representation on 10.4.2013 and 27.4.2013 at Annexure-A/8 & A/10 respectively



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requesting cancellation of his transfer and allowing him to continue at Bhubaneswar at least for one year more. Before being considered the said representations, another order dated 23.4.2013 (Annexure-A/9) was issued by the Assistant General Manager (HR & ADMN.), Bhubaneswar to relieve all the officers who are under the orders of transfer latest by 27.4.2013. It is the contention of the Learned Counsel for the Applicant that till date he has not been relieved but in view of the letter at Annexure-A/9 he is likely to be relieved shortly. Hence being aggrieved by the said order of transfer at Annexure-A/7 & letter at Annexure-A/9, the applicant has filed the instant OA with prayer to quash the order of transfer dated 8.4.2013 at Annexure-A/7 and the order to relieve at Annexure-A/9, in so far as the Applicant and Respondent No.5 are concerned.

2. We find that the main grounds of challenge of his order of transfer to Keonjhar vis-à-vis the posting of Respondent No.5 in his place are that (a) the wife of the applicant is an employee of the Government of Odisha and presently posted at Puri. The posting of the wife of the applicant at Keonjhar is neither within the domain of the applicant nor his wife. As per the policy of transfer husband and wife as far as possible should be posted at one station. This aspect has not been taken into consideration by the authority while ordering transfer; (b) the daughter of the Applicant (Indira Priyadarshini) is a



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Cerebral Palsy patient having more than 80% mental and physical disability. Therefore, transfer of the applicant to such a faraway place would cause difficulty to take care his daughter; (c) the present transfer would cause dislocation of the study of his who is continuing in Std-XII in DAV Public School, at Chandrasekharapur, Bhubaneswar. Besides, the above, it has been contended that as per clause 12 (i) of Section of the transfer policy formulated/issued by the BSNL, Corporate Office, New Delhi on 7th May, 2008 executives who have completed 10 years of stay in a station may be transferred to another station within the circle's jurisdiction and as per clause 13 (iv) of the ^{said} ~~said~~ transfer guidelines/policy, employees of the cadre having longest stay at the station shall be transferred first to the rural/unpopular ares. By placing copy of the list at Annexure-A/3 it has been brought to the notice of this Tribunal that there are number of SDEs working at Bhubaneswar station/SSA in BSNL Odisha Telecom Circle who have stayed more than 13 years have not been disturbed/transferred from Bhubaneswar station/SSA till date whereas the applicant who has completed thirteen years of service at different places within Bhubaneswar has been disturbed. In other words, it is the contention of the Learned Counsel for the Applicant that the order of transfer has been issued in a pick and choose manner and as such the same is

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not sustainable. Copy of this OA has been served on Mr.S.B.Jena, Learned Counsel who is appearing for the Respondents-BSNL.

3. Mr.S.B.Jena, Learned Counsel appearing for the Respondents/BSNL drew our attention to the transfer policy/guidelines and has submitted that as the applicant has completed 13 years of service at Bhubaneswar he was transferred and posted to Keonjhar. The present transfer and posting was ordered in public interest in exigency of service and that this being a chain transfer interfering in the matter would create administrative inconvenience. He has prayed not to interfere in the matter and this OA being devoid of any merit may be dismissed.

4. It is seen that while the applicant was/is transferred and posted to Keonjhar in his place Shri Manoranjan Dash (Respondent No.5) who is continuing as SDE under GM (CM),CMTS, Bhubaneswar has been posted. But as it appears, none is posted in place of Respondent No.5 and the grievance of the applicant is for retention at Bhubaneswar only for another one year.

5. The grievance of the applicant appears to be genuine and needs sympathetic consideration. Since no decision has specifically been taken on the representation of the Applicant and the authority is well within his domain to look to the personal matters while effecting the order of transfer, this OA is disposed of with direction to

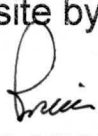


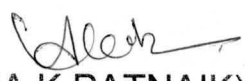
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Respondent No.2 to consider the representation of the applicant at Annexure/8 dated 10.4.2013 and Annexure-A/10 dated 27.04.2013 keeping in mind the provision of the guidelines and personal difficulties of the applicant noted above and communicate the result thereof in a reasoned order to the Applicant within a period of 30(thirty) days from the date of receipt of copy of this order. Till then status quo, as of date, in so far as the continuance of the Applicant in the post in question shall be maintained.

6. It is also made clear that if in the meantime any decision has already been taken on the representations of the applicant, referred to above, then the result thereof shall be communicated to the applicant within a week.

7. With the aforesaid observation and direction this OA stands disposed of at this admission stage. There shall be no order as to costs. Copy of this order along with ~~OA~~^{de} be transmitted to Respondent No.2 at the cost of the Applicant; for which Learned Counsel for the Applicant undertakes to furnish the required postal requisite by 6/5/2013.


(R.C.MISRA)
Member(Admn.)


(A.K.PATNAIK)
Member (Judl.)