

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 35 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Dual Chandra Das, Vill: Tahabazar,
Chaul Patty, P.S. Balurghat, Dist.
South Dinajpur, working as R.M. (Regular
Mazdoor) in the office of the Tele-
communication, SDO-Telephone, Balur-
ghat Sub-Division, Balurghat.

..... Applicant

(Represented by Mr. B.M. Roy,
Counsel)

-Vs-

Union of India through -

1. The Chief General Manager, Telecom,
West Bengal Circle, I, Council House
Street, Calcutta - 700 001 ;
2. The Area Manager, Telecom (North),
PO : Siliguri, Dist. Darjeeling ;
3. The Telecom District Engineer, Office
of the Telecom District Engineer, 44,
Binoy Sarkar Road, Malda ;
4. Sri P.C. Basak, Sub-Divisional Officer,
Telegraphs, Balurghat.

..... Respondents

(Represented by Ms. K. Banerjee,
Counsel)

Heard on : 4.9.1997

Order on : 17.9.1997
18.9.1997

O R D E R

A.K. Chatterjee, VC

The petitioner, working as a regular mazdoor in the office of Telecommunication, SDO Telephones at Balurghat, was transferred by the impugned order dated 29.6.95 to Kaliaganj, which, according to him, was passed in mala fide exercise of power. He says that he is a handicapped person with 60% disability due to deformity in the right lower extremity and in such condition it would be clearly impossible for him to travel a long distance to the transferred station nor his limited means permit to shift his residence and family to that place. When request made by him orally and in writing to his employer to withdraw the impugned

transfer order proved fruitless, he had issued the lawyer's notice, which, too, was of no effect. Hence this application has been filed to quash the order of transfer to Kaliaganj.

2. The respondents in the reply state that the petitioner is an unruly and indisciplined staff with destructive attitude towards the administration but lenient view was taken because of his physical condition. On 1.6.95 a violent incident took place in the office in which the petitioner took part and assaulted the SDO, Telephones with his crutch in presence of other officials for which a police investigation was started which ended in a charge-sheet and the criminal case is pending before a competent Magistrate. He has been transferred to Kaliaganj in the interest of service and to avoid risk of security and tampering with the records. He was released on 29.6.95 and since then he did not report to the transferred station nor ^{made} ~~gave~~ any application for leave and a disciplinary proceeding for unauthorised absence is under process.

3. No rejoinder was filed by the petitioner.

4. We have heard the ld. counsel for the parties and perused the records before us.

5. That there was a violent incident in which the petitioner was alleged to have taken active part in assaulting the SDO, Telephones has not even been denied by him by filing any rejoinder. It is true that this question awaits adjudication before a competent Magistrate but the broad fact remains that the respondents' contention that the petitioner was a person with destructive attitude towards the administration, remains uncontroverted and therefore, their apprehension that the retention of the petitioner at Balurghat involves the risk of tampering with records, cannot be said to be unfounded. In

other words, the transfer of the petitioner is called for in the interest of public service.

6. The ld. counsel for the petitioner has stated that if he was guilty of unruly or indisciplined conduct, the disciplinary proceedings could be drawn up against him but this could not be a ground for transfer. It was up to the authorities to decide whether DA proceeding should be drawn up particularly because a criminal case was already pending but even though no such proceeding was drawn up, still the necessity of transfer in the interest of public service cannot be questioned for the reasons stated in the preceding paragraphs-. In the facts and circumstances of the case, we are not satisfied that the impugned transfer order was made in malafide exercise of power.

7. The petitioner is, no doubt, a handicapped person, who has to use a crutch, though, according to the respondents, he had assaulted the SDO, Telephones, with the crutch itself. However, quite apart from it, sympathy, no doubt, goes to him for his handicapped physical condition, but this cannot be a ground for interference by this Tribunal when the transfer order is found to have been made in the interest of public service.

8. We, therefore, see no merit in this application which is rejected. No order is made as to costs.


(M.S. MUKHERJEE)
MEMBER (A)


(A.K. CHATTERJEE)
VICE-CHAIRMAN