

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 917 of 1996.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

Smt. Indrani Chatterjee
W/o- Sri Debpriya Chatterjee
of - 5, Dr. A.K. Paul Road,
PO. Behala, Cal-34.

... ... Applicant.

Vs.

1. Union of India
service through the -
Secretary, Ministry of
Telecommunication, Govt. of
India, Sanchar Bhavan,
New Delhi.
2. Director (SEA), Govt. of India,
Dept. of Telecommunication,
Sanchar Bhavan,
New Delhi,
3. Chief General Manager,
Calcutta Telephones District,
Dept. of Tele-communication,
Telephone Bhavan, Cal-1.
4. Asstt. Director General (SEA),
Govt. of India,
Dept. of Telecommunication,
Sanchar Bhavan,
New Delhi.
5. Chief General Manager,
West Bengal Telecom,
Dept. of Tele-communication
1, Council House St, Cal-1.

... ... Respondents.

For Applicant : Mr. B. Ghosal, Counsel leading
Mrs. B. Ghosal, Counsel.

For Respondents : Mr. M.S. Banerjee, Counsel.

Heard on : 9.12.96 &
20.12.96.

Date of Order : 20.12.1996.

O R D E R

1. The admitted facts involved in this case are as follows :-

Contd... P/2.

In Junior Accounts Officer (JAO) Part-II examination held in February, 1994, 54 candidates including 19 lady candidates were declared qualified from West Bengal Telecom Circle including Calcutta Telephones. Due to non-availability of sufficient vacancies to accommodate all the candidates in West Bengal Telecom Circle/ Calcutta Telephones, 44 candidates, including 15 lady candidates, were posted outside West Bengal Telecom Circle/Calcutta Telephones at Maharashtra, Gujarat, MTNL Bombay where a large number of vacancies existed but sufficient candidates were not available. The applicant was, however, allotted to West Bengal Telecom Circle being a lady candidate and senior in rank as per transfer/posting policy. Though JAO is a cadre having transfer liability all over India, yet the applicant preferred an application for re-allotment to Calcutta Telephones where possibilities of few vacancies arose due to promotion of few Asstt. Accounts Officer to the grade of Accounts Officer. The request of the applicant was acceded to and her re-allotment order to Calcutta Telephones was issued by a Memo dated 26th June, 1995. Before issuance of re-allotment Order dated 26th June, 1995, the applicant had joined the West Bengal Circle and, therefore, that re-allotment Order was cancelled. Though on joining duty in West Bengal Telecom Circle the applicant had no right to be transferred for a further period of one year; she was transferred to Calcutta Telephones as the concerned authority was not aware of her joining in West Bengal Telecom Circle. Her request for transfer was considered on compassionate ground and she was re-allotted to Calcutta Telephones. The applicant had already joined the West Bengal Telephone Circle on 18th Sept', 1995 without waiting for the outcome of her representation for being re-allotted to Calcutta Telephones; therefore, as already stated, the re-allotment Order was cancelled.

2. Being aggrieved by the aforesaid action on the part of the respondents, the applicant had filed an application before this

Contd.....P/3.

Tribunal being numbered as O.A. No. 584 of 1996 which was adjudicated by an Order dated 10.5.1996 by this Tribunal in the following terms :-

"...we dispose of the application with a direction upon the respondents, particularly, respondent no.2 to dispose of the representation of the applicant dated 19.4.96 at page 59 to 61 of the application within 3 weeks from the date of communication of this order. The applicant shall communicate the copy of the Order passed today together with the application and annexures thereto the respondents. ..."

Pursuant to the direction given by the Tribunal, the respondents had passed an Order on 3rd June, 1996, which Annexure 'J' is therein to the application. The respondents have stated that there were only 6 vacancies in the grade of J.A.Os in Calcutta Telephone District and recently as per direction given by the Bombay Bench of this Tribunal, some applicants have been transferred from MTNL Bombay to Calcutta Telephone District instant and, therefore, the applicant's case could not be considered. However, "her request will be registered on receipt of her application through proper channel and considered on its turn on availability of vacancies in Calcutta Telephones, District." Being aggrieved by the said Order, the instant application has been filed with the prayer that the impugned Order dated 3rd June, 1996 be quashed and set aside and she be transferred from Krishnanagar to Calcutta in the Calcutta Telephones.

3. The respondents have contested the case by filing a reply. The stand taken by the respondents has already been cited in para 1 of this Judgement & Order.

4. During hearing, Mr. Ghosal, 1d. Counsel leading Mrs. Ghosal for the applicant emphasises the fact that the respondents had earlier given her assurance of transfer from Krishnanagar to Calcutta in Calcutta Telephones on availability of vacancies and since the respondents have gone back from their assurance,.

they are not permitted to do so as per provision of promissory estoppel. In this connection, Mr. Ghosal also cited the decision of the Hon'ble Apex Court in the case of - M/s. Motilal Padamput Sugar Mills Co. Ltd. Vs. The State of Uttar Pradesh & Ors. as reported in AIR 1979 SC 621. To buttress this contention he further cited a decision of the Hon'ble Apex Court in the case of Union of India Vs. Anglo Afghan Agencies, reported in AIR 1968 SC 718. However, Mr. Banerjee, 1d. Counsel appearing for the respondents strongly submits that the doctrine of Promissory Estoppel is not applicable in this case since the respondents did not give any assurance whatsoever to the applicant for her transfer.

5. The matter has been examined by me carefully after hearing the submission of the 1d. Counsel for both the parties, perusing the records and considering the facts and circumstances of the case. First-of-all, I would like to say that the applicant has All India transfer liability and the dispute raised in this application is only about her transfer from Krishnanagar to Calcutta. I note that initially, perhaps, considering the merit position of the applicant, she was not sent out of West Bengal while there was a large number of persons qualified in the J.A.O. examination were posted out of West Bengal and along with them certain lady candidates were also posted as such. It, therefore, cannot be said that the authorities concerned had treated unfairly the case of the applicant at that time. It also appears to me that the applicant has joined already at Krishnanagar before her representation filed for re-allotment to Calcutta could be considered and disposed of. The respondents have taken the plea that since the applicant has already joined at Krishnanagar on 25.3.96. Despite that revelation made by the applicant in her representation, the Tribunal had directed the respondents to consider her representation for re-transfer from West Bengal Circle to Calcutta Telephones



Contd...P/5.

The Tribunal also had directed the respondents to dispose of the representation dated 19.4.96 at pages 59 to 61 of the application bearing No. OA 584 of 1996. This being the position I am clearly of the opinion that the plea cannot be taken by the respondents that the said representation was not routed through proper channel. The respondents should have, therefore, considered the representation of the applicant on the basis of the Order passed by the Tribunal without taking the plea that the application was not routed through proper channel. It is true that the application for transfer in administration should require to be routed through proper channel; but, such a direction was not there in the Judgement passed on 10.5.96 which the authorities cannot be permitted to ignore. It appears to me that the applicant has filed this application again when she came to know that ~~some vacancy arose~~ / in Calcutta. Normally this Court would not have encouraged this type of litigation on the issue of transfer but having gone through the impugned Order passed by the respondents I am led to believe that the representation dated 19.4.1996 was ^{not} considered by the respondents in the proper perspective and strictly in terms of the direction given by the Tribunal. I am, therefore, of the view that an appropriate Order to be passed in this case will be to give a suitable direction in the matter.

6. In view of the observation made, the application is disposed of with the Order on the respondents that the representation dated 19.4.1996, even though it is not routed through proper channel, shall be disposed of by the respondents in proper perspective in the light of the direction given by the Tribunal and also the statement made in the impugned Order dated 3.6.96 to the effect that her case shall be considered on its turn on availability of vacancies in Calcutta Telephones, District.



Contd...P/6.

I have been given to understand by Mr. Ghosal that more than 10 vacancies have been created and I, therefore, direct the respondents to consider the case of the applicant against one of those vacancies. In case it is decided to transfer her from Krishnanagar (West Bengal Telecom Circle) to Calcutta Telephone, District, I direct that she may be released only after 25.3.1997 on which date she will complete the tenure of one year.

Mr. Ghosal further submitted that the applicant did not receive her salary for the last 6 months or so i.e. from October, 1995 to 24th of March, 1996. Mr. Banerjee, on a query, made by this Bench, stated that the matter is under consideration. She has also filed a representation in this regard. I, therefore, direct the respondent authorities to consider the representation in this regard and to pass appropriate Orders thereon within a period of one months from the date of communication of this Order.

No Order is passed as regards costs.



(B.C. Sarma)
Member (A)

P/K/C.