

6

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Applications No. 278 and 279 of 1997.

Jodhpur, the 28th October, 1997.

Madu Khan S/o Shri Mobium, aged 30 years, Regular Mazdoor,
Telecom Department, Bagra District Jalore.

Applicant of O.A.No. 278/1997.

Gaje Singh S/o Shri Kishan Singh, aged 30 years, working as
Regular Mazdoor, Telecom Department, Bishangarh, District Jalore.

Applicant of O.A.No. 279/1997.

Versus

1. Union of India through the Secretary to Government, Ministry
of Communication (Department of Telecom), New Delhi.

2. Sub Divisional Officer, Telegraphs, Jalore.

3. Junior Telecom Officer (Outdoor), Jalore.

Respondents in the O.As.

CORAM :

HONOURABLE MR.A.K.MISRA, JUDICIAL MEMBER

For the Applicants, Mr.Vijay Mehta, Advocate.
For the Respondents, Mr.Vineet Mathur.

BY THE COURT :

In both these Original Applications, order challenged by the
applicants and the relief claimed by the applicants, is the same,
therefore, these Original Applications are disposed of by this
common order.

2. The applicants have moved individual application with the
prayer that transfer order Annex.A/1 dated 11.8.1997, be quashed
and respondents be restrained from transferring them from their
present place of posting.

3. The Notices of the O.As were given to the respondents who
have filed their reply in which they have said that there is no
work available for the applicants at the place of their posting,
therefore, in order to better utilise their services and on
administrative grounds, applicants have been transferred vide
Order Annex. A/1. The respondents have contended that applicants
have not exhausted alternative remedy of representing their
grievance to the departmental authorities, in such circumstances,

Compared
21

7

the O.As are not maintainable.

4. I have heard the learned counsel for the parties and gone through the records.

5. The applicants have not ^{alleged} challenged any mala fides against any of the departmental authorities in transferring them from their present postings. This is a settled principle that the Courts or the Tribunals would not interfere in transfer matters where the transfer has not been made malafidely or in colourable exercise of administrative powers. In the instant case, it has been argued by the learned counsel for the respondents that there is no work available for the applicants at the place of their postings. Their transfer has been affected for better utilisation of men power because the department cannot pay anybody without taking work from him. In reply to this, the learned counsel for applicants has argued that applicant Madu Khan was transferred to Sagra vide order dated 29.3.1997 (Annex.A/2) at his own request. He has not even completed six months in that place and he has been transferred, therefore, this order is bad. Similarly, he has argued that Gaje Singh was transferred to Bishangarh at his own request on 25.8.1996 and he had not even completed one year and has been transferred vide order Annex.A/1, therefore, his transfer too, is bad.

6. I have considered these arguments. No doubt, these two applicants were transferred to their present place of working at their own request but this does not entitle them to continue at the same place even when work has ceased to exist. Even if the work is still existing even then no employee can insist to remain posted at that particular station. If such transfer orders which are made for better utilisation of men power and on administrative grounds, are interfered with by the Courts, administration may suffer irreparable loss. Therefore, the applicants cannot insist to remain posted at these places.

7. The learned counsel for the applicants has argued that the applicants have been transferred in mid of the educational session, therefore, the transfer order is bad. I have considered this aspect also. There is nothing on record to show that children of the applicants are studying and transfer would effect their education. Therefore, this argument does not help the applicants.

5

8. The learned counsel for the applicants has argued that due to some anonymous complaints, the applicants have been transferred as a punishment but the respondents have not denied this fact, therefore, it should be inferred that applicants have been transferred by way of punishment. I have considered this aspect also. The respondents have very clearly stated that no work is available for the applicants at the place of their posting, therefore, their transfers cannot be treated to be on complaints. This only appears to be the imagination of the applicants.

9. The applicants have alleged that they have not been served with the transfer order whereas, respondents have said that in order to avoid service of transfer orders, the applicants are not reporting on duty and are on medical leave. This in my opinion, is a fact which goes against the applicants. On the one hand they are challenging the transfer orders and on the otherhand they are even not accepting the same. However, if a Government employee remains away from duty, he loses his leave or his pay and avoidance to receive transfer order is always accompanied by this sort of loss. Therefore, in the instant case, if the applicants are away from duty only to avoid transfer order, they are doing so at their own risk and costs.

10. In my opinion, there are no merits in these cases for interfering in the transfer order. The Original Applications deserve to be dismissed and are hereby dismissed. The parties are left to bear their own costs.

(A.K.MISRA)

Member (Judicial)

Mehta

प्रमाणित

सत्य प्रतिलिपि

उडाता (52)

मनुभाग अधिकारी (न्यायिक)

केन्द्रीय प्रशासनिक अधिकरण

जोधपुर न्यायपीठ, जोधपुर