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CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 3/2002

Date of Order: 9.1.03

Khinwa Ram Patwal son of Shri Surja Ram, aged about 41 years, resident of Qtr. No. 23, Telecom Colony, Churu, at present employed on the post of Sr. TOA (P) of General Section office of the TDM, Churu.

...Applicant.

V E R S U S

1. Union of India through Secretary to Govt. of India,
Min. of Communication, Department of Telecom,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager Telecom,
Rajasthan Circle, Jaipur.
3. Telecom District Manager,
Churu, Distt. Churu.

...Respondents.

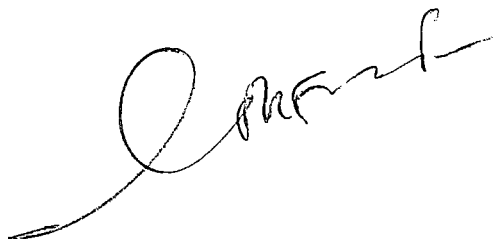
Mr. B. Khan, counsel for the applicant.

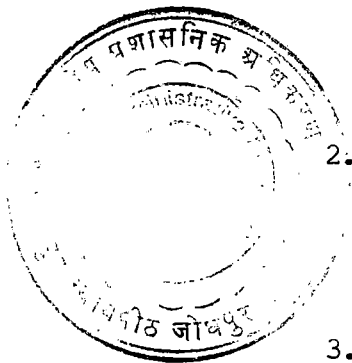
Mr. Vijay Bishnoi, counsel for the respondents.

CORAM:

HON'BLE MR. JUSTICE G.L. GUPTA, VICE CHAIRMAN.

HON'BLE MR. A.P. NAGRATH, ADMINISTRATIVE MEMBER.





: O R D E R :

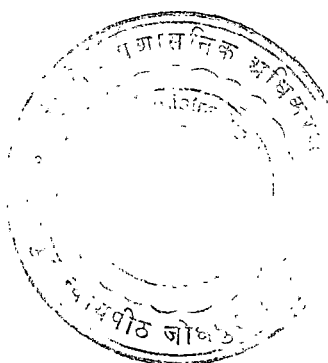
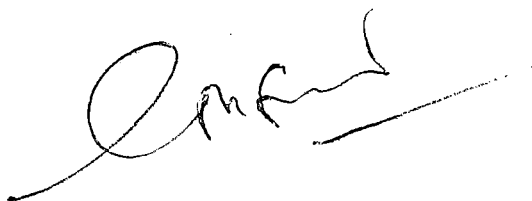
PER MR. JUSTICE G.L. GUPTA:

Through this Original Application, the applicant calls in question the transfer order dated 29.12.2001 (Annexure A/1) whereby he was transferred from Churu to Ratangarh.

2. It is averred that the applicant was initially appointed as Telephone Operator at Makrana on 21.3.82. He earned promotions and at the relevant point of time he was holding the post of Senior TOA (P) at Churu. The grievance of the applicant is that he has been transferred in the mid-academic session, and his three children are studying in 8th, 4th and 2nd classes at Churu. It is averred that the applicant has been transferred on the basis of the letter of a Member of Parliament written to the Minister of State and the transfer order issued under pressure of the people's representative, is not in public interest. It is further stated that if the respondents thought that the applicant was indulged in party poitics an inquiry could have been initiated against him, instead he has been punished by way of transfer.

3. In the counter, the respondents' case is that the applicant has been transferred on administrative grounds and in public interest and the Court cannot be justified in interfering with the transfer. It is averred that the transfer order cannot be interfered with even if it was issued on the instructions of the Minister of State.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

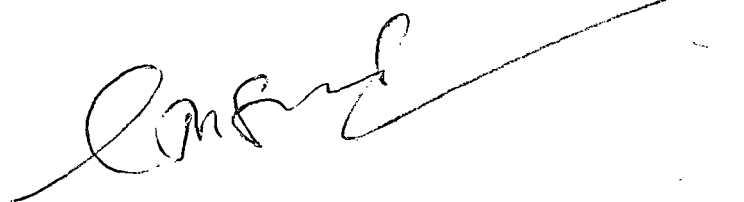
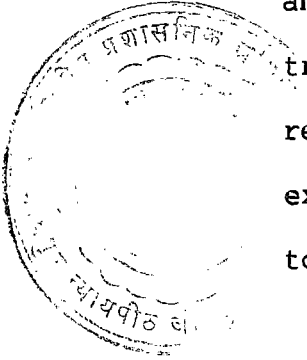


5. It is obvious that Shri Ram Singh Kaswa, Member of Parliament wrote a letter on 23.11.2001 to the Minister of State for communications, against the applicant stating that he was helping one political party, because his wife was a member of the Zilla Parishad belonging to the same political party. Thereafter on 5.12.2001, a letter was addressed to the T.D.M. Churu, by the Assistant General Manager (Admn.) Rajasthan Circle, enclosing therewith the letter of the Member of the Parliament for immediate report. Then the applicant was transferred vide order dated 24.1.2001.

6. The sequence of the events clearly shows that the applicant has been transferred on the basis of the letter written by the Member of Parliament. It has to be accepted that transfer of an employee only on the basis of a letter of People's representative cannot be said to be in public interest. It is for the transferring authority to consider whether transfer of an employee is required from one place to another in public interest. If it is accepted that an employee can be transferred simply on the ground of a letter written by a People's representative, it would mean that the powers of transfer are exercisable by the persons other than the civil servants responsible to run the administration.

7. If the allegations levelled in the letter of the Member of Parliament had some substance, then an inquiry could have been ordered against the applicant. The respondents could not be justified in transferring the applicant as a measure of penalty without holding an inquiry.


8. Admittedly, the applicant has been transferred during the mid-

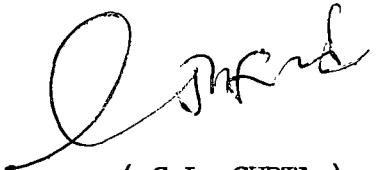


academic session and that was the reason, the transfer order was stayed by this Tribunal vide order dated 7.1.2002. The education of the children is bound to suffer when an employee is transferred in the mid-academic session.

9. The circumstances leading to the transfer of the applicant indicate that it was malafide exercise when the applicant was transferred. The order of transfer is not sustainable.

10. Consequently, the Application is allowed. The order impugned in this Original Application is hereby quashed. No order as to costs.


(A.P. NAGRATH)
Adm. Member


(G.L. GUPTA)
Vice Chairman

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jsv