

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application 317/2010

Date of decision: 15.09.2011

**Hon'ble Dr. K.B. Suresh, Judicial Member,
Hon'ble Mr. Sudhir Kumar, Administrative Member.**

Mangi Lal S/o Shri Nand Lal Bhatia, aged about 57 years, Resident of 7/234, Bhatia Para, Jaisalmer, Rajasthan. Presently working as Sr.Telcom Operative Assistant, Grade-IV (Chief Section Supervisor) in the office of Telecom District Manager, Jaisalmer. : Applicant.

Mr. Kuldeep Mathur, counsel for applicant.

Versus

1. The Bharat Sanchar Nigam Limited, (Govt. of India Enterprise) through its, Chief Managing Director, BSNL, New Delhi.
2. The General Manager, Telecom District, BSNL, Subhash Nagar, Pal Road, Jodhpur.
3. The Divisional Engineer (Planning & Administration) BSNL, Jaisalmer.
4. The Telecom District Manager, BSNL, District Jaisalmer.

: Respondents.

**Mr M.S. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.**

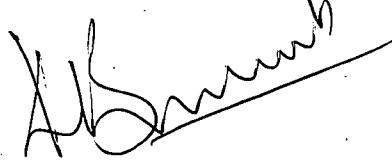
ORDER (ORAL)

Per Dr. K.B. Suresh, Judicial Member

We have heard both the learned counsels.

2. This is a second round of litigation. The applicant seems to be over age in the frame of within which he can be transferred out. Apparently, he has less than two years' service left before his retirement. He holds a post of Sr. Telecom Operative Assistant and therefore, cannot be considered as holding a very sensitive and very significant post.

3. In the first round of litigation, we had remitted the matter back to the respondents, vide order dated 28.09.2010 passed in O.A. No.277/2010, specifically stipulating several reasons that (i)

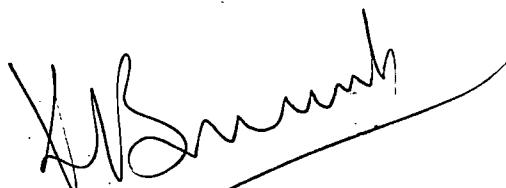


the transfer policy seems to be transgressed, (ii) his post is apparently not available at the transferred place i.e. Pokaran, (iii) against two sanctioned posts three persons are already working at the transferred place, (iv) in the circumstances of his age, the competent authority was directed to take decision in the matter and to inform the applicant of the decision by a speaking order.

4. Now, Annexure-A/8, dated 02.11.2010, a speaking order has been passed canvassing the following issues:-

- (i) it is management's right to transfer an employee,
- (ii) to provide replacement for a specific post/cadre,
- (iii) to meet the business requirement of BSNL,
- (iv) to bridge man power deficit,
- (v) the transfer is justified as per transfer policy,
- (vi) this is a transfer due to administrative reasons on specific ground of doubtful integrity.

5. Apparently, the respondents did not understand the meaning of the word speaking order. The speaking order espouses the reasons generated by that order. When they are claiming that it is management's right to transfer the applicant, what it discloses is his serious arrogance. He does not seem to explain in the order as to why a transfer in violation of the rules has to be issued other than doubt on integrity. The only reason, which he would say, is that the applicant has doubtful integrity. So the question which arises is that what is the nature of applicant's doubtful integrity and on what basis, and why follow up action was not taken. The applicant assails this by saying that he was never issued even one show cause notice in his entire service but yet the respondents find

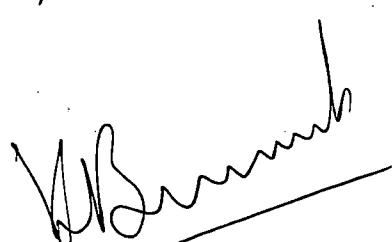


him deficient in integrity, and when they found him deficient in integrity then why the official concerned could not take immediate action in the interest of public exchequer. If an employee is found lacking in integrity, and the official is merely transferred from one place to another, then the lack of integrity and its effect will go alongwith him to the new place of transfer as well.

6. Therefore, the speaking order is bereft of significance and application of mind. The speaking order must stand on its own legs, but the way it is framed, it has to be deprecated. Therefore, the O.A. is allowed and the impugned orders are quashed qua the applicant. But, we reserve the right of the respondents to proceed departmentally against the applicant if there are sufficient grounds warranting it. But, we add at this juncture that the speaking order was the result of arbitrariness and unreasonableness, and very significant non application of mind in spite of specific orders. Therefore, we impose a cost of Rs.1,000/- on BSNL and direct them to recover the same from the concerned official. We make it clear that our observations are not intended to prevent the respondents from taking appropriate follow up action against the applicant if it is warranted.

7. With the above observations and directions, the O.A. is allowed with a cost of Rs.1,000/-.


**[Sudhir Kumar]
Administrative Member**


**[Dr. K.B. Suresh]
Judicial Member**