

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.281/JODHPUR/2012

Jodhpur, this the 26th day of April, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

J.P.Yadav Son of Shri Babu Ram, aged 55 years, Telecom Mechanic, Bharat Sanchar Nigam Limited, Hanumangarh; R/o Siresia Fatehdeen Wala, Near Bharat Ata Chakki, Hanumangarh.

.....Applicant

By Advocate: Mr Vijay Mehta

Versus

1. Bharat Sanchar Nigam Limited, through the Chariman cum Managing Director, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi.
2. General Manager, Bharat Sanchar Nigam Limited, Telecom District, Sri Ganganagar.
3. Assistant General Manager, Bharat Sanchar Nigam Limited (HR and Administration) in the office of General Manager, Bharat Sanchar Nigam Limited, Telecom District, Sri Ganganagar.
4. Sub Divisional Engineer (GSM), Bharat Sanchar Nigam Limited, Hanumangarh.

.....Respondents

By Advocate : Mr. Mukesh Dave

ORDER (ORAL)

Heard both the counsels.

2. The learned counsel for the applicant stated that the impugned order dated 3rd July, 2012 is prima-facie illegal and not maintainable.

3. Briefly, the facts of the case are that the applicant who is Telephone Mechanic was transferred from Hanumangarh to Talwada vide order dated 03.07.2012. He challenged the same before this Tribunal vide OA No.281/2012. Subsequently, the order was stayed on 13.07.2012 by the Division Bench of this Tribunal, which is continuing till today.

4. While arguing the case, the learned counsel for the applicant reiterated that the general principles of transfer guidelines have not been followed while transferring the applicant out of Hanumangarh. He stated that the order was against the transfer policy and was malicious, qua the applicant. The learned counsel submitted that generally transfer should be effected in public interest. It has not been indicated in the transfer order that any public interest would be served by transferring the applicant out of Hanumangarh. Secondly, the transfer was effected in mid academic session, which will affect the education of his school going children. Thirdly, he drew my attention to Para 13(iii) of additional guidelines of transfer policy (Ann.A/7) which suggests that generally transfer of employees of more than 55 years of age should be avoided for posting to tenure stations.

5. Per contra, learned counsel for the respondents stated that all Government servants are liable to be transferred and an

anywhere. Also the children of the applicant who were studying in B.A. (First Year) and Political College in the year 2012 would have completed their studies by now. So the grievance or the cause of action for his continued stay no longer exists. As far as the issue of public interest is concerned, the respondents are not required to disclose any reason for transfer in the transfer order. The transfers in Government job are done keeping in view the administrative exigencies. Same was the case here.

6. On going through the facts of the case, I find that the applicant has been transferred by the respondents in the normal course. Since the applicant was holding a transferrable post, he was liable for transfer from one place to another as an incident of service. Alleging mala-fide on the part of the respondents, qua the applicant, is not proved by any stretch of imagination. The grievance of the applicant against a mid-session transfer, which was likely to disturb the education of his children, does not exist any more i.e. 4 years after the impugned transfer order. Clearly, the order was issued in the best interest of service effecting many others as well. Therefore, no reasons to justify the transfer are required to be disclosed by the respondents.

7. The judgments cited by the learned counsel for the applicant do not apply in the facts and circumstances of the present case.

10/10/2018

8. I, therefore, hold that the impugned transfer order was correctly passed by the administrative department. However, the fact remains that now the applicant, willy nilly, must be awarded for the delayed delivery of justice. The applicant who probably has less than 2 years to superannuate will come under the ambit of additional guidelines of Transfer Rule 13(iii). The respondents are hence directed to post him to Hanumangarh, at any post deemed fit, as per administrative requirement. The impugned order stands accordingly modified, qua the applicant.

9. The OA stands disposed of in above terms with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/