

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

✓

O.A. No. 257/2013

Jodhpur this the 1st August, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

S.R. Chaliha S/o Shri Chuna Ramji, Aged about 56 years,
Resident of E-153, Khtaturia Colony, Bikaner.

Presently working as Deputy General Manager (Finance) in
the Office of General Manager, Telecom District, Bikaner.

.....Applicant

(Through Advocate Mr Kuldeep Mathur)

Versus

1. Bharat Sanchar Nigam Ltd. Through its Chief General Manager, Telecommunication, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
2. The Senior Manager (Finance), Bharat Sanchar Nigam Ltd. in the office of Chief General Manager, Telecommunication, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
3. The Chief Accounts Officer (CA &IA) Bharat Sanchar Nigam Ltd. in the office of Chief General Manager, Telecommunication, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.

(Through Advocate Mr Vinit Mathur)

..... Respondents

ORDER (Oral)

The applicant, Shri S.R. Chaliha, by way of this OA has challenged the legality of the transfer order Annex. A/1 by alleging that he has been transferred from the GMTD, Bikaner to GMTD, Jodhpur with intention to accommodate Shri Om Prakash Sharma

✓

who was transferred from GMTD, Sriganganagar to GMTD, Bikaner by the respondent -department. The applicant further averred in the OA that he has neither completed his full tenure at particular station nor he completed post tenure, station SSA tenure or circle tenure, thus, transfer order is in violation of the guidelines issued by the BSNL vide order dated 07.05.2008. He further averred that he was transferred in an unceremonious way to accommodate one Shri O.P. Sharma. Therefore, the applicant filed this OA under Section 19 of Administrative Tribunals Act, 1985 and sought relief to quash and set aside transfer order dated 24.06.2013 (Annex. A/1) qua applicant.

2. By way of reply, the respondent-department denied the right of the applicant to remain at Bikaner station and further averred that he has been transferred as per the requirement of the department. The respondent-department averred that Shri O.P. Sharma is due for retirement on superannuation by 31.10.2014 and, therefore, 1 year 3 month's service is left in the case of Shri O.P. Sharma and his case falls under 'within two years of retirement on superannuation', therefore, Shri O.P. Sharma was transferred from Ganganagar to Bikaner on his own request. The respondents denied the grounds alleged in the application.

3. By way of rejoinder, the applicant reiterated the same facts and also relied upon the transfer policy of the BSNL.

4. Heard both the parties. Counsel for the applicant contended that the applicant was promoted to JAG level post in the month of May, 2013 and posted at Bikaner. Soon after completion of one month's service on JAG level post he has been transferred from Bikaner to Jodhpur, thus, respondents-department violated the general guidelines issued by itself vide its circular/policy dated 07.05.2008. He further contended that the applicant has been unceremoniously posted at Jodhpur while accommodating Shri Om Prakash Sharma at Bikaner, therefore, order passed by the competent authority vide Annex. A/1 is required to be quashed, qua the applicant.

5. Per contra, counsel for the respondents contended that transfer order can only be challenged on the ground of established malafides or on the ground of incompetence of transferring authority. He further contended that guidelines issued by the respondent-department are having persuasive value and in such cases of transfers, it cannot be said that respondent-department has violated the rules or statutory provisions. He further contended that guidelines also provides that in the interest of the service, transfer orders can be issued at any time of the year, therefore, the order Annex. A/1 passed by the competent authority cannot be said to be illegal or against the provisions of law. He also contended that Shri Om Prakash Sharma is transferred on his own request as per the relevant policy, because he is due for retirement on

Xo

superannuation in the year 2014 and no fact in this OA has been pleaded regarding malafides on the part of the respondent-department. Therefore, OA lacks in merit.

6. Considered rival contentions of both the parties and also perused the documents filed by the parties. It is settled principle of law that transfers in general are necessitated due to requirement of filling of posts, making intra-departmental tenure requirement and to meet out the administrative exigencies of the department, and transfer policy have only persuasive value. Unless and until there is clear cut case of malafide, made out or established, no transfer order shall be interfered while exercising the powers under Article 227 of Constitution of India.

7. In view of the above fact, the applicant was transferred on account of request of Shri Om Prakash Sharma who is due for retirement in the year 2014 on superannuation. It cannot be said that the applicant was transferred due to malafides on the part of respondents. Therefore, Annex. A/1 cannot be said to be illegal or against the provisions of law. Accordingly, The OA lacks merits and the same stands dismissed. There shall be no order as to costs.



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER