

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.283/2013

Jodhpur, this the 2nd day of December, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Nawab Khan s/o Shri Bhanwaroo Khan, aged 48 years, Telecom Mechanic,
Bharat Sanchar Nigam Limited, Ratangarh, R/o Near Kali Tanki, Near
Railway Station, Ratangarh, District Churu.

.....Applicant

Mr. Vijay Mehta, counsel for applicant

Vs.

1. Bharat Sanchar Nigam Limited, through the Chairman cum Managing Director, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi.
2. Deputy General Manager, Bharat Sanchar Nigam Limited, Telecom District, Churu.
3. Assistant General Manager (HR/A), Bharat Sanchar Nigam Limited, in the office of General Manager, Bharat Sanchar Nigam Limited, Telecom District, Churu.
4. Sub Divisional Engineer, (NWO), Bharat Sanchar Nigam Limited, Ratangarh.

...Respondents

Mr. V.D. Dadhich, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

The applicant, Nawab Khan, by filing the present OA has challenged the order dated 11.7.2013 (Ann.A/1) by which he has been transferred from Ratangarh to Sadulpur and therefore, prayed for the following reliefs:-

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"The applicant prays that order ANN A1 qua the applicant may kindly be quashed and the respondents may kindly be restrained from implementing the same. The respondents may kindly be directed to continue the applicant at Ratangarh on his present post. Any other order may kindly be passed giving relief to the applicant."

2. Brief facts of the case, as stated by the applicant, are that the applicant is posted at Ratangarh on the post of Telecom Mechanic and vide impugned order dated 11.7.2013 he has been transferred to Sadulpur. The applicant has averred that this transfer has not been made for attaining the objectives mentioned in para 2, 4 and 5 of the transfer policy and no reason has been given in the order for effecting the transfer. Therefore, the transfer of the applicant has not been made in the interest of State. It has been further averred that the transfer has been made in mid academic session, which will ruin the carrier of his children. It is further alleged that the transfer has been made in violation of the transfer policy Ann.A/2 and orders Ann.A/3 and A/4, therefore, the same deserves to be quashed.

The transfer order has been challenged by the applicant on the ground that it is passed by an incompetent authority, it is not a reasoned order and there is no element of interest of State involved in the transfer of the applicant. The request of the applicant to transfer at choice station has not been considered but request of other Telecom Mechanic has been accepted and the applicant has been discriminated in the matter of transfer with reference to other Telecom Mechanics. Therefore, aggrieved by the action of the respondents, the applicant has filed this OA.

3. The respondents have filed reply and denied the right of the applicant. It has been submitted that the transfer order is in conformity with the transfer policy Ann.A/2. Respondents have further submitted that one Shri Nizamuddin was working at Sadulpur, but on compassionate grounds

he was required to be posted at Ratangarh, though his application for transfer was pending for quite long time and in the year 2012 he made a request that his mother was seriously ill and his younger brother was not mentally fit. In such situation, he was posted at Ratangarh on deputation basis. When condition of his mother did not improve, as per provisions contained in the transfer policy, his placement was made at Ratangarh Station on compassionate grounds on expiry of his deputation period in the month of June, 2013. It is further stated that as per the transfer policy, orders are required to be issued preferably during the month of March/April, but it has also been made clear in the policy itself that in the interest of service, transfer orders can be issued at any time in the year and on account of administrative exigency, the applicant was required to be transferred in place of Shri Nizamudin from Ratangarh Station to Sadulpur even in July, 2013. Therefore, the transfer is made in exigency of service as per the transfer policy.

4. Heard both the parties. Counsel for the applicant contended that the applicant has been transferred from Ratangarh to Sadulpur vide Annex.A/1 to accommodate one Shri Nizamuddin who was transferred/posted on deputation from Sadulpur to Ratangarh. He further contended that the applicant is low paid employee and has been transferred on Govt. cost so as to adjust Shri Nizamuddin.

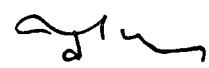
5. Counsel for the respondents contended that Shri Nizamuddin's mother was sick for long time and earlier he was on deputation to Ratangarh, therefore, he was transferred to Ratangarh vide Ann.A/1.

6. We have considered the rival contentions. Although transfer is a necessary incident of service, but taking into consideration the entire facts and circumstances of the case and looking to the fact that the applicant is a low paid employee working on the post of Telecom Mechanic in BSNL, therefore, we intend to dispose of this OA with certain directions.

7. Accordingly, the OA is disposed of with direction that the applicant shall make written representation to respondent No.2 i.e. Deputy General Manager, Bharat Sanchar Nigam Limited, Telecom District, Churu within two weeks from the date of receipt of this order and thereafter, respondent No.2 shall decide the representation of the applicant within one month from the date of receipt of such representation. The applicant shall not be relieved till any decision on the representation of the applicant is taken. No order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member



R/ss