

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 357/Jodhpur/2013
&
Original Application No.358/Jodhpur/2013

Jodhpur this the 01st December, 2015

CORAM

Hon'ble Ms Meenakshi Hooja, Admv. Member

Bhim Singh Chauhan S/o Shri God Singh, aged about 51 years, R/o village & Post Keshagudha, at present employed on the post of Phone Mechanic in Telephone Exchange at Sagwara District Dungarpur under BSNL SSA Banswara.

.....Applicant in OA No.357/2013

Jeewan Singh Chauhan S/o Shri Khem Singh, aged about 48 years, R/o village and Post Tortgarh, Tehsil Beawar, District Ajmer, at present employed on the post of Phone Mechanic in Telephone Exchange (Marketing) at Sagwara District Dungarpur under BSNL SSA Banswara.

.....Applicant in OA No.358/2013

(By advocate : J.K. Mishra)

Versus

1. Bharat Sanchar Nigam Ltd, through its Chairman & Managing Director, Corporate office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001.
2. The Chief General Manager Telecommunication, Bharat Sanchar Nigam Ltd, (A Govt. of India Enterprises) Rajasthan Circle, Sardar Patel Marg, Jaipur-08.
3. The General Manager Telecom District, BSNL, Banswara-327001.

.....Respondents

(By Advocate : Mr. Lalit Vyas for Mr. V.D. Vyas)

ORDER (Oral)

These two OAs have been filed under Section 19 of the Administrative Tribunals Act, 1985. In OA No.357/2013, the applicant Shri Bhim Singh Chauhan has sought for a direction to the respondents to consider his transfer to his choice station i.e. SDCA Amet District Rajasamand under SSA Udaipur and in OA No.358/2013, the applicant Shri Jeewan Singh Chauhan has sought the relief that the respondents may be directed to consider the case of the applicant for transfer to his choice station i.e. SDE Devgarh under SSA Udaipur. As in both the OAs similar reliefs have been sought, therefore, they are being disposed of by this common order.

2. When the matter came up for hearing today, the counsel for the applicant submitted that the applicant in OA No.357/2013 Shri Bhim Singh has been working in Banswara SSA for more than 23 years, first as Line Mechanic at Sagwara from 1990 and later on promotion as Phone Mechanic from 1995 at Telephone Exchange, Sagwara and he has submitted numerous applications and requested for his transfer to SDCA Amet, District Rajasamand under SSA Udaipur. However, his request has not been considered. Counsel for applicant further contended that as per Transfer Policy dated 07.05.2008 especially Para-13 (Annexure-A/1), the applicant has completed his tenure and specially referred to Annexure-A/2 letter dated 17.10.2001, wherein Banswara SSA is one of the hard/difficult stations, and choice posting is allowed

after two years and the applicant who has been there for so long, is therefore, entitled to his choice posting under SSA Udaipur. Further, it was submitted that the applicant has given his second option as SDCA Udaipur (as at Ann.A/3) and he could also be considered for the same especially Para-13, and letter dated 17.10.2001 (Ann.A/2) the case of the applicant deserves to be considered for transfer.

3. Counsel for the applicant submitted that in OA No.358/2013, the applicant, Shri Jeewan Singh Chauhan, has worked as Phone Mechanic in Banswara SSA at Telephone Exchange, Sagwara for 16 long years and he has also submitted numerous applications and requested for his transfer to the office of SDCA, Dev Garh under SSA Udaipur and he submitted his second option for Amet SDCA as per Ann.A/3. In view of the long service of the applicant at Sagwara, under SSA, Banswara and the policy of the respondent Department and especially Ann.A/2 letter dated 17.10.2001, the counsel for the applicant contended that the

transfer of the applicant to his choice place is fully justified.

Learned counsel for the applicant in support of his contentions also referred to the order dated 27.09.2012 passed by this Tribunal in OA No.3581/2011 & 7 Ors (Narendra Kumar Roat & Ors. V. Union of India & Ors.) (marked as Ann.A/5 in OA No.357/2013) wherein this Tribunal has considered similar matters and given the following directions:-



"14. In view of the above, the O.As are disposed of with a direction to the respondents to undertake the exercise of ascertaining persons who have completed their tenure in non-difficult stations and who could be transferred to hard/difficult stations and after issue of a warning letter to such persons, they may be transferred to stations where the applicants are serving and the applicants be transferred to their choice stations."

In view of the above, counsel for the applicant prayed for both the OAs to be allowed.

5. Per contra, counsel for the respondents, with reference to both the OAs, submitted that the Annexure-A/2 i.e. communication dated 17.10.2001 wherein Banswara SSA has been included as a difficult station, applies only to Circle Level Officials and does not apply to the present applicants who are SSA level as they are in the cadre of Phone Mechanic. Counsel for the respondents, while reiterating the points made in the reply also drew special attention to Paras No.1, 3 and 5 of the Transfer Policy (Ann.A/1) which are regarding Purpose, Management's Right and Basis for Transfer and submitted that in view of these provisions, the needs and business requirements of the organization are required to be considered by the management before making any transfers. He also inter-alia referred to the reply to the grounds, wherein it has been stated that "applicant cannot claim his transfer to choice station as a matter of right only on the ground of tenure. No legal and statutory right exists in favour of the applicant to claim posting at his choice place. As per transfer policy, the transfer is

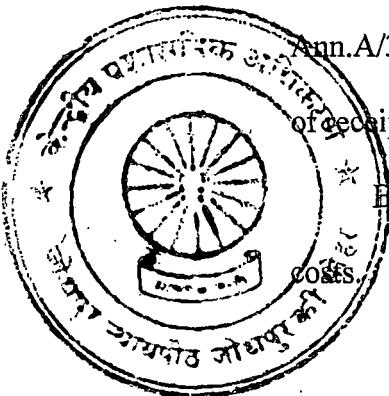
not purely based on the tenure specified in the policy. The management has right to transfer or not to transfer any official as per business requirements and needs based upon shortage of officers at any location or for any other reason. It is also relevant to mention here that transfer policy is not statutory in nature, the same is in the form of administrative instructions/circulars/guidelines". He, thus, prayed for dismissal of the OA.

6. Considered the aforesaid contentions and perused the record. It appears that the applicant in OA No.357/2013, Shri Bhim Singh Chauhan and applicant in OA No.358/2013 Shri Jeewan Singh Chauhan have been working in SSA Banswara for last more than 23 and 16 years respectively. Though the directions as at Annexure-A/2 dated 17.10.2001 apply to Circle Level Officials/Officers and applicants are only SSA Level Officials, but a comprehensive look at the BSNL Transfer Policy as at Annexure-A/1 shows that it also provides for general principles and request transfers, and Section D i.e. para 13 provides for Additional guidelines specific for non-executives. Though policies have only a persuasive value and the Management, especially in an Organization like BSNL has to keep its overall interests in mind, yet considering the fact that the applicants have been at their present place of posting at Sagwara under SSA, Banswara over 23 and 16 years respectively and that they have been making request for their choice posting and keeping in view the decision of this Tribunal in OA

No.581/2012 and 7 others, it is deemed appropriate to dispose of these OAs with certain directions.

Accordingly, the respondents No.2 & 3 are directed to consider the case of the applicants in the present OAs, who have been under SSA Banswara for a long and considerable period, in the light of their own policy as at Annexure-A/1 and keeping in view of the directions of this Tribunal dated 27.09.2012 in OA No.581/2011 & 7 others, and take a decision on the requests made and options given by the applicants (as at Ann.A/3 in both the OAs) within a period of four months from the date of receipt of a copy of this order.

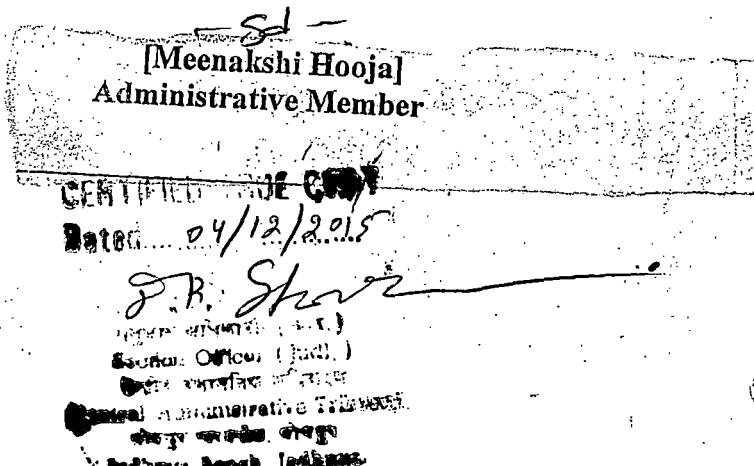
Both the OAs are thus disposed of as above, with no order as to



Rss/

**COMPARED &
CHECKED**

Rew



R/G
10/2/15

Rew
for P.D. Hooja
10/12/2015