

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00022/2014

Jodhpur this the 11th day of July, 2014

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Nawab Khan s/o Shri Bhanwaroo Khan, aged 49 years, Telecom Mechanic, Bharat Sanchar Nigam Limited, Ratangarh, r/o Near Kali Tanki, Near Railway Station, Ratangarh, District Churu.

.....Applicant

By Advocate: Shri Vijay Mehta

Versus

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 (NOW O/D-I/D), Bharat Sanchar Nigam Limited, Ratangarh.

.....Respondents

By Advocate : Mr. Anil Bhandari

ORDER (Oral)

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

In the present OA filed u/s 19 of the Administrative Tribunals

Act, 1985, the applicant has prayed for the following reliefs:-



The applicant prays that orders ANN A 1, ANN A 3 and ANN A 2 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. Facts of the case in brief are that the applicant is posted at Ratangarh on the post of Telecom Mechanic and was transferred to Sadulpur vide order dated 11.7.2013 which has been issued by respondent No.3 with approval of respondent No.2. It is stated by the applicant that except him, all three other Telecom Mechanics have been transferred on their own request. The applicant challenged order dated 11.7.2013 before this Tribunal by filing OA No.283/2013 and the same was disposed of vide order dated 02.12.2013 with direction that the applicant shall make representation to respondent No.2 and respondent No.2 shall decide the representation of the applicant. The applicant filed representation dated 19.12.2013 (Ann.A/6) and respondents have decided the representation vide order dated 4.1.2014 (Ann.A/1) by a totally non-speaking and mechanical order and upheld the order of transfer and directed the applicant to join at Sadulpur. It is averred by the applicant that his request to transfer at his choice station has not been considered, but the request of Shri Nizamuddin has been accepted on false grounds so as to accommodate him at Ratangarh. Further, the transfer order is issued in mid session and it shall not be possible for his children to continue their studies at Ratangarh. Therefore, aggrieved of the action on the part of the respondents, the applicant has filed this OA praying for the reliefs as extracted above.

3. By way of reply to the OA, the respondents have submitted that the applicant was posted at Ratangarh since 20.01.2003 and his total stay at Ratangarh upto 31.3.2013 is of 10 years and 2 months, whereas the other employees i.e. Govind Prasad, Nanu Ram, Liyakat Ali and Pokar Mal have stayed at Ratangarh for 9 years 10 months, 9 years 8 months, 7 years 9 months and 7 years 8 months respectively.

It is further submitted that Sadulpur is a hard and unpopular station, therefore, it is necessary as per transfer policy to transfer the applicant at Sadulpur because his stay at Ratangarh is longest. So far as transfer of Shri Nizamuddin is concerned, the respondents have stated that his transfer from Sadulpur to Ratangarh has been made as per transfer policy as he has made application for transfer on the main ground of transfer policy and also stated that his mother and brother are ill. It is further stated that the applicant made representation dated 19.12.2013 and his representation was considered by the competent authority and vide order dated 4.1.2014 he was directed to join his duties at Sadulpur on his transfer on Government cost and he was also advised to submit transfer application from Sadulpur to the place of his choice and his request will be considered as and when suitable occasion will arise. Therefore, the applicant is not entitled to any relief.

4. Heard both the parties. Counsel for the applicant contended that earlier the applicant filed an OA No.283/2013 which was decided by the Division Bench of this Tribunal vide order dated 02nd December, 2013 and the applicant was directed to file a written representation to

respondent No.2 within two weeks and the respondent No.2 was directed to decide the same within one month from the date of receipt of such representation. Counsel for the applicant submits that in pursuance of the above directions the applicant filed a detailed representation dated 19.12.2013 as at Annexure-A/6, and the respondent department rejected the said representation of the applicant vide Annexure-A/1, dated 04.01.2014. Counsel for the applicant further submits that the Annexure-A/1 order cannot be said to be a well reasoned and speaking order and from bare perusal of the Annexure-A/1, it appears that the concerned departmental authority has not applied his mind over the facts averred in the representation and further no reason has been communicated in Annexure-A/1 for the rejection of the representation of the applicant.

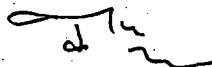
5. Per contra, counsel for the respondents contended that applicant was transferred on the ground of longest stay at Ratangarh and the Sadulpur is not more than 100 kms away from the Ratangarh. But, counsel for the respondents failed to explain the reason as to why these facts have not been narrated in the Annexure-A/1.

6. Considered the rival contentions of both the parties. In our considered view, Annexure-A/1 does not refer to any reason for rejection of the representation of the applicant, and in spite of the clear directions by this Tribunal vide order dated 2nd December, 2013 passed in OA No.283/2013, the competent authority failed to communicate the reasons of the transfer and other relevant material

for transfer of the applicant from Ratangarh to Sadulpur. Accordingly, the order dated 04.01.2014 (Annexure-A/1) is quashed and the respondent department is directed to decide the representation of the applicant dated 19.12.2013 (Annexure-A/6) by way of reasoned and speaking order within three weeks from the date of receipt of a copy of this order. Further, till the disposal of the said representation by the respondent department, the applicant shall not be relieved from his present post with reference to Annexure-A/2.

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


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

R/Rss

copy for Reed
dated 15/7/14

John West
J. West