

01

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.583 of 1997

Present: Hon'ble Mr. D. Purkayastha, Judicial Member

Baidyanath Das, S/o Late Murari Mohan Das
Sr. TO A(P), TA Sec. Bankura Telephone
Exchange, r/o Haritaki Bagan, P.O.
Kenduadihi, Dist. Bankura and

Nikhilananda Roy, S/o Sri Ahibhusan Roy,
C/o Sachidananda Roy r/o Income Tax
Quarter P.O. Kenduadihi, Dist. Bankura
and working as Sr. TO A(P) TK Sec.
Bankura Telephone Exchange, Bankura

... Applicants

VS

1. Union of India, Service through
The Secretary, Ministry of Communication
Department of Telecommunication, N. Delhi

2. Chief General Manager,
Telecommunication, West Bengal Circle,
Calcutta-1

3. Area Manager (South),
Telecommunication, P.O. Asansol,
Dist. Burdwan,

4. Telecom District Engineer, Bankura
Telecom., Dist. & P.O. Bankura

5. S.D.O. Telegraphs, Bankura Sub-
Division, P.O. & Dist. Bankura

... Respondents

For the Applicants : Mr. N. Bhattacharyya, counsel

For the Respondents: Ms. K. Banerjee, counsel

Heard on 27.5.1999

: : Date of order: 5-7-1999

O R D E R

The question for decision in this case is whether sectional rotational transfer of T0s posted in the STD/PCO booths to the post of Operators at Bankura Trunk Exchange is permissible under the rule of the Department or not. According to the applicants, they are holding the posts of Sr. TO A(P) TK Section, Bankura Telephone Exchange and applicant No.1 made a representation to the Telecom District Manager, Bankura stating that T0s and Sr.T0 A(P) cannot be posted by rotational transfer in PCO as PCO operator for booth operation and he has been aggrieved by the order dated 27.5.97, Annexure/A7 by which it was

decided that the rotational transfer of the operators at Bankura Exch.197 and 198 and the departmental STD booths are permissible. According to the applicants, duties and functions of the restructured cadre, i.e., Phone Mechanic, Telecom Technical Assistant and Senior Telecom Operating Assistant are distinct and separate. So, rotational transfer of Sr. Telecom Operating Assistant to the PCO booth for functioning as Technical Assistant is not permissible. Thereby, they have challenged the impugned decision contained in the letter dated 20.5.1997, Annexure/A7 to the application stating interalia that the said decision is arbitrary, illegal and affecting the status of the Sr. Technical Operating Assistant and hence they filed this case before this Tribunal for quashing the order dated 20.5.97 at Annexure/A7 to the application. According to the applicants, the matter was referred to the departmental authority for decision; but no decision could be taken by the authority in respect of sectional rotational transfer of TTA and Sr.TO A to STD, PCO booths operators. The respondents ultimately decided and intimate the applicants that such transfer is permissible.

2. The respondents filed written reply denying the allegation of the applicants. They have stated that Shri Baidya Nath Das and others are Sr. Telecom Office Assistant (Phone) hereinafter referred to as Sr.T.D.A.(P) and they are working under S.D.O.T., Bankura under T.D.E., Bankura. They have been posted as Sr.T.O.A.(P) on rotational transfer basis to man 197/198 services/the Departmental STD PCO vide SDOT, Bankura's order No.Con.X-1/97-98/6 dated 10.6.97, Annexure/R1 to the reply. It is stated that due to conversion of CBM Exchange to Stowger the Telecom Supervisors and Telecom Operators of Bankura Exchange were reallocated as per CGMT., W.B. Circle, Calcutta letter No.EST-TC/E-31 dated 28.10.91 and subsequent instruction from A.M.T.(S), Calcutta No.AMS/BKU/91-92 dated 4.12.91 in which the deployment of Operators were spelt out including the name of T.Ss

and T.Os. Over and above three more T.Os were given for STD/PCO to installation preferably Telephone Exchange who were identified in Annexure/II and accordingly the postings were made. It is also stated that the posts of STD and PCO operators are not sanctioned but these are manned by permanent departmental staff like T.Os and Sr.TOA(P) and as per the Circle Office letter No.SF/TC/R-39/Corr dated 20.5.97 posting in STD PCO, Trunk Exchange comes under the purview of sensitive post. It is also stated that there is no such rule that Sr. Operators should continue in sensitive post in Trunk Exchange for years together. Moreover, the Sr. TOA(P) who is posted at STD, PCO booth has already been posted as per sanction of Sr.TOA(P) only which comes from restructuring of the cadre of T.Os converted to Sr.TOA(P)s. It is also stated by the respondents that posting in Trunk Exchange and STD PCO booth are within the purview of sensitive posting and are liable for periodical rotation within the same station. The respondents have, therefore, prayed that the application is devoid of merit and as such it should be liable to be dismissed.

3. ~~I have considered the submissions of the learned advocates of both the parties~~ Mr. Bhattacharyya, learned advocate for the applicant strongly relies on the guidelines in respect of the duties of restructured cadres, i.e., Phone Mechanic, Telecom Technical Assistant and Senior Telecom Operating Assistant issued by DOT under No.29-1/96-TE-II dated 3.4.96. Referring to the said notification Mr. Bhattacharyya submits that duties of the Telecom Technical Assistant (TTA) are prescribed under TTAs (Switching) and TTAs (Transmission); and duties of Sr. TAOs have been restructured under Sr.TOA (Phone), Sr.TOA (General), Sr. TOA (Telegraphy) and Sr.TOA (Telegraphy General) and on the basis of the said duties allotted to the respective cadre of TTA and Sr.TOA, the Sr. TOAs should not be posted by rotational transfer at booth for STD/PCO's operation

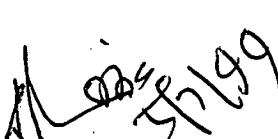
[Handwritten signature]

and Sr.TOAs should be retained in the main Exchange for smooth running of the office administration and the respondents ignoring the seniority position and duties and responsibilities attached to the post by notification dated 3.4.96 are making rotational transfer of Sr.TOAs in respective booths despite the applicants made representation to the authorities for recalling the transfer order of Sr.TOAs. But the respondents ignoring that representation communicated the decision in respect of rotational transfer of TOs posted in STD and PCO booth and he has drawn my attention to the letter No.E-94/95-96/9 dated 13.9.95, Annexure/A2 to the application and he further submits that since there is no rule regarding rotational transfer of TOs posted in STD/PCO, therefore, Sr.TOAs should not be posted in STD/PCO booth.

4. Ms. Banerjee, learned advocate for the respondents submits that there is no rule for regulating the transfer of TOs posted in STD and PCO booths and thereby the applicants cannot raise any objection in the matter of posting in STD and PCO and their postings have been made in accordance with the exigencies of service. Ms. Banerjee further submits that no evil consequence is being followed by rotational transfer of TOs posted in STD and PCO booth and the applicants cannot demand that posting should be made according to their choice.

5. I have considered the submissions of the learned counsel of both the parties. From the letter dated 13.9.95, Annexure/RVI to the reply and from the letter dated 12.10.1993, Annexure/R-VI to the reply it is found that till date there is no such ruling regarding rotational transfer of TOs posted in STD/PCO. I have gone through the duties of the restructured cadre of Phone Mechanic, Telecom Technical Assistant and Senior Telecom Operating Assistant and from that instruction vide notification dated 3.4.96 it is found that the duties of the respective cadres such as TTAs (Switching), TTAs (Transmission), Sr.TOAs (Phones),

Sr. TOAs (General) etc. are prescribed. It is also mentioned that other duties beyond the duties prescribed for respective cadres can be assigned by the seniors. It is found that rotational transfer has been made and is being made by the respondents for administrative exigency. The applicants have failed to show that such rotational system of transfer of operators posted in STD/PCO is violative of any rule framed by the respondents. It is a settled law that transfer of an employee from one post to another is an administrative exigency of service and such order of transfer should not be interfered with unless it is shown that such transfer is malafide and violative of transfer rules and reduction in rank or status. In the instant case I do not find that any rule has been violated by the respondents. The case of the respondents is that in the absence of any rule the transfer of Telephone Operators posted in STD/PCO are being effected for administrative reason. So, I do not find any infirmity in the matter of rotational transfer as being done by the respondents, but it be mentioned here that the rotational transfer of TOs posted in STD and PCO may be done considering the seniority of the officers in the particular office. Under normal rule junior persons may be posted in STD/PCO booth. If the seniority is taken into consideration, the grievance of the applicants can be ~~ignored~~ ^{modified}. The respondents may take into consideration the seniority position of Telephone Operators at the time of making rotational transfer to PCO or STD booth. If these principles are followed, employees may not have any grievance. With this observation I dispose of the application awarding no cost.



(D. Purkayastha)

MEMBER (J)