

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 810 of 1997

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Shri Pranab Baran Syam, s/o late Promotha Nath Syam, aged about 51 years, working for gain as Asstt. Manager in the office of the Telecom Factory, Calcutta, residing at 107/7, S.L. Chatterjee Street, P.O. & P.S. Nimta, Calcutta - 49.

..... Applicant

-Vs-

1. Union of India, service through the Secretary, Ministry of Communication, Deptt. of Tele-communication, Sanchar Bhawan, New Delhi - 110 001 ;

2. The Chairman, Telecom Commission, Deptt. of Telecommunication, Sanchar Bhawan, New Delhi - 110 001 ;

3. The Asstt. Director General (TFS), Deptt. of Tele-communications, Sanchar Bhawan, 20, Ashoka Road, New Delhi - 1 ;

4. The Chief General Manager, Telecom Factory, 248, A.U.C. Bose Road, Alipur, Calcutta-27 ;

5. The Personnel Officer, Telecom Factory, Office of the Chief General Manager, Telecom Factory, Alipore, Calcutta-27.

..... Respondents

For applicant : Mr. S.K. Ghosh, counsel

For respondents: Mr. B. Mukherjee, counsel

Heard on : 28.8.1997

Order on : 18-9-1997  
9.9.1997  
J.

O R D E R

A.K. Chatterjee, VC

The petitioner, an Assistant Manager at Telecom Factory, Calcutta has been transferred to Bhilai by the impugned order dt. 9.4.97, which he has challenged mainly on the ground that it was made by <sup>an</sup> Assistant Director General, who was not competent to transfer an officer of the rank of the petitioner. He has also stated

that his transfer out of Calcutta would upset domestic affairs, such as care of his old widowed mother suffering from various ailments, disruption of education of his daughter and service of his wife, who is employed in a Central Government Office in a non-transferable category of post etc.

2. The respondents have filed a reply and <sup>have</sup> they said that the transfer order was only communicated by the Assistant Director General, but the transfer itself was ordered with due approval of the competent authority. It was said that the transfer was a part of rotational transfer of several officers in his grade and on due consideration of administrative experiences and exigencies of service. The petitioner had made representation, which was sympathetically considered but he could not be accommodated in Calcutta or neighbouring place.

3. We have heard the <sup>Ad.</sup>d.Counsel for the parties and perused the records before us.

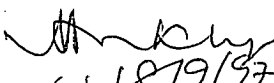
4. Regarding <sup>the</sup> authority to transfer, it is seen ~~that~~ from the letter of the D.D.G.(P) dt.12.6.95 annexed to the reply that the appropriate authority to transfer an officer of the rank of J.T.S., to which the petitioner belongs, is the DDG(P) himself and the channel of submission is ADG/DR(TF). If this letter is found to be sustainable, then DDG(P) is the competent authority to transfer the petitioner. Now the relevant office file was produced at the time of hearing, which showed that the transfer order in question had the approval of DDG(P) and only the communication was made by A.D.G.(PF, which was the channel of submission according to the letter of the DDG(P) referred to above. However, the petitioner has referred to P & T Manual, Vol.III, according to Schedule 17 of which only P&T Board now replaced by Telecom Commission had the authority to transfer. This was laid down by the Ministry of Communication(P & T) Memo dated 18.3.53 long before the

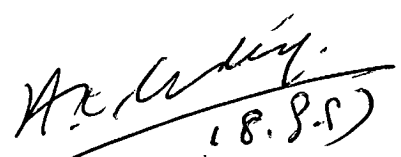
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birth of Telecom Department and on its basis, we are unable to hold that the distribution of power as laid down in the letter of DDG(P) referred to above with the approval of Member(Production) is invalid or of no effect. Thus, it is found that the transfer in question cannot be challenged on the ground that it was passed without any authority.

5. Regarding domestic commitments, it appears from the reply that the mother of the petitioner has since passed away and that he himself had written to the Chief General Manager on 11.7.97 that his daughter's admission after completion of 10 + 2 standard would take about a month or little more and he might be relieved from Telecom Factory on 26.8.97. Thus, at the present moment, it cannot be urged that he is unable to move out of Calcutta for any of the aforesaid two reasons. Regarding the service of his wife, who is posted in Calcutta, it can be said that there is no mandatory provision that both these spouse have to be posted in the same place and the spouse with the longer stay can apply to his/her cadre controlling authority for transfer to the place of posting of the other spouse. At any rate, even if the petitioner has any domestic problem, he has to <sup>sought</sup> ~~sought~~ it out and this Tribunal cannot interfere unless it is found to be an outcome of malafide exercise of power. We are unable to find any malafide in the present case. In fact, it is on the record that the petitioner after <sup>at</sup> ~~at~~ brief tenure in Bombay was brought to Calcutta on his request and he has been in this station for more than 20 years. Also the petitioner has not given any satisfactory <sup>reason</sup> ~~result~~ as to why the authorities should have any hostility towards him.

6. We, therefore, see no merit in this application, which is rejected. No order is made as to costs.

  
( M.S. Mukherjee )  
Member(A)

  
( A.K. Chatterjee )  
Vice-Chairman