

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.502/13

Friday this the 26th day of July 2013

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

C.C.Antu,
S/o.Cheriyar,
Telecom Mechanic,
Telephone Exchange, BSNL, Kunnukara.
Residing at Chowaran House,
Mattoor, Kalady P.O. - 683 574.

...Applicant

(By Advocate M/s.Dandapani Associates)

V e r s u s

1. Sub Divisional Engineer (Telecom),
BSNL, Chengamanad, Aluva - 683 578.
2. The Divisional Engineer (Telecom),
BSNL, Aluva - 683 101.
3. Asst. General Manager (Admn.),
Office of the Principal General Manager,
Telecom, BSNL Bhavan, Ernakulam - 682 016.

...Respondents

(By Advocate Mr.George Kuruvilla)


This application having been heard on 26th July 2013 this Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is a Telephone Mechanic working in Telephone Exchange, BSNL Kunnukara under the 1st respondent, namely, Sub Divisional Engineer (Telecom) BSNL, Chengamanad, Aluva. His grievance is against the Annexure A-4 order No.Admn./267/Trfr./TMs/Vol.IV/2012-13/2 dated 28.5.2013 to the extent that he has been transferred to Erattayar, situated in High Range area and his Annexure A-3 request dated

9.5.2013 against the aforesaid order to cancel his transfer has not been acceded to. In the said representation he has stated that his wife is a teacher and is working at Attappadi in Palakkad District. He has two daughters, elder studying in 10th standard and younger one in the 3rd standard. The younger one has been suffering from fits and undergoing treatment. His aged mother of 82 years is the only help but she is also a patient. His wife being a teacher at Attappadi, in her absence his presence is essential at home to look after his younger daughter. Therefore, he has stated that he is not able to join at High Range area and requested to cancel the aforesaid transfer order and allow him to continue in the present station. He has also made another representation (Annexure A-6) dated 29.5.2013 stating further that he had undergone a surgery last year on his left leg and he suffers from pain on prolonged walking and climbing stairs. Therefore, his posting at High Range area should be cancelled. His immediate supervisor, namely, Shri.Venugopalan Nair.T.P., Divisional Engineer Telecom, BSNL, Chengamanadu, Aluva has also, vide Annexure A-6 (2) letter dated 29.5.2013, testified that his case is genuine and accordingly recommended for proper orders. As no favourable action was taken in this regard by the respondents, he has filed this O.A seeking the following reliefs :-

1. Issue orders setting aside Annexure A-4 transfer order in so far as the applicant is considered.
 2. Issue an order directing the 3rd respondent to consider and pass orders on Annexure A-6 petition submitting by the applicant and the recommendation by respondents 1 and 2.
 3. Pass such other appropriate order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
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4. Award cost of the application.

2. Senior counsel Smt.Sumathi Dandapani appearing on behalf of the applicant has submitted that the respondents have not considered the request of the applicant in its right perspective. In this regard, she has relied upon the "Policy for introducing tenure transfer for solving long standing transfer requests of Non executives from high ranges" issued by the respondents vide letter dated 7.10.2008 wherein only the following categories have been exempted from such posting :-

1. In extremely exceptional situations, specifically skilled Non executive employees working in some of the sections like computers, broadbands, installation, transmission, LD etc. will have to be exempted from this scheme in this larger interest of the company. However, such exemptions will be normally limited for a period not more than 1 year.
2. Non executive employees/their spouses suffering from cancer, acute renal problems, heart ailments and non executive employees having mentally retarded children.
3. Non executive employees having their children studying in 12th standard for one year.
4. All Non executive employees aged more than 56 years.
5. All lady non executive employees.


However, the respondents themselves have considered similar requests from others and they were exempted from the transfers. Her further contention is that since the applicant's wife is working in Attappadi on a post which is not a transferable and she cannot get a posting near his residence at Mattoor, Ernakulam District so as to look after her two daughters and his mother, the only option left with the applicant is to work at a place near to his house and look after his child.



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3. The respondents, however, in their reply statement submitted that the applicant's transfer from Kunnukara to Erattayar is purely in the interest of service and as part of the general transfer issued strictly in accordance with the transfer norms governing the field. They have also stated that considering the non-availability of adequate willing staff to the difficult areas like High Ranges but at the same time proper staffing is necessary for ensuring required service to the customers in difficult areas, a High Range Transfer Policy of rotational transfer among the same cadre of both executives and non executives have been evolved in Ernakulam SSA in consultation with the recognized unions. According to the said policy, after the tenure period of one year, the officials who have been transferred to High Range areas have to be transferred back to places of their choice as far as possible, by displacing officials. However, in the instant case, the applicant's transfer along with several others have been necessitated due to the requirement of staff at High Range areas/hard tenure areas to ensure proper service to customers and also to transfer back those Telecom Mechanics who are transferred to High Ranges last year and completed their tenure.


4. I have heard the learned counsel for the parties. It is seen that when this matter was heard initially on 31.5.2013, while issuing notice to the respondents, this Tribunal has stayed the Annexure A-4 dated 28.5.2013 to the extent it relates to the applicant till the next date of hearing. Since then stay was continuing. There is no dispute that the applicant is facing a very genuine problem and his own superior officer has certified that the reasons given by him to cancel his transfer order



are quite genuine. Even then the competent authority in the respondents department refused to consider his request and pass orders either rejecting or accepting it. Therefore, the applicant has to approach this Tribunal with the O.A.

5. It is also seen that the High Range transfer policy is formulated on some sound principles. However, exemptions are given to certain categories but the applicant's case is not covered by the same. But the guidelines are only guidelines and they do not have any statutory sanction. There can be cases which goes beyond the transfer policy and such cases have to be examined on merit in individual cases. However, I have seen that inspite of the request of the applicant stating certain reasons for cancelling his transfer to the High Range has not been considered at all. There is no doubt that the applicant is suffering from certain genuine problems particularly with regard to his young child who is suffering from fits and his wife is employed and posted at Attappadi which is far away from his house. Therefore, the child is being looked after by him and the only person available in the house is 82 years old mother. Therefore, the request of the applicant to cancel the transfer was worth consideration at least for a short while until he makes alternative arrangements.

6. I also find that High Range transfers are only for a limited period of one year and all the employees except the exempted categories have to undergo such transfers, at least, once in their service period. Therefore, the applicant not belonging to the exempted category has to serve the High Range area as per the transfer policy. During the hearing also, counsel for



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the applicant has conceded that the applicant had to serve the High Ranges as per the aforesaid policy. However, the only submission now made by the counsel for the applicant is that in view of the peculiar problem faced by the applicant, he is not in a position to immediately to go for a transfer as his young daughter who is studying in the 3rd standard and suffering from fits will be left alone. On instructions from the applicant, the counsel has also stated that if a exemption is given to him from transfer for a year he will not make any objection for his transfer when the rotation transfer is made to High Ranges next time. I, therefore, in the interest of justice, direct the applicant to give a written undertaking to the respondents that he will abide by the transfer order to the High Ranges when it is made on the next round of rotation transfer and on receipt of such an undertaking the respondents shall consider the request of the applicant for exemption from the present transfer to the High Ranges for one year.

7. With the aforesaid direction this O.A is disposed of. There shall be no order as to costs.

(Dated this the 26th day of July 2013)


GEORGE PARACKEN
JUDICIAL MEMBER

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