

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.507/2010⁴511/2010

Dated this the 7th day of January, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

O.A. 507/2010

A.P. Mathew
Junior Accounts Officer
HRMS No. 198313684 (Staff No. 181039)
O/o the Executive Engineer
BSNL Electrical Division
BSNL Centre, P.O. Road
Thrissur - 680 001.

..... Applicant

(By Advocate Mr. Vishnu S. Chempazhanthiyil)

Vs

- 1 The Executive Engineer
 BSNL Electrical Division
 BSNL Centre, P.O. Road
 Thrissur
- 2 The General Manager (Finance)
 O/o the Chief General Manager
 Telecom, Kerala Circle
 Thiruvananthapuram.
- 3 The Director (Finance)
 BSNL Corporate Office
 Bharat Sanchar Bhavan
 Janpath, New Delhi - 1
- 4 The Chairman & Managing Director
 Corporate Office, BSNL
 New Delhi.

..... Respondents

(By Advocate Mr. George Kuruvila)

O.A. 511/2010

T.S. Simon
Accounts Officer (Officiating)
Staff No. 181026
TR Computer Centre,
O/o the General Manager
Telecom, Thiruvalla.

..... Applicant

(By Advocate Mr. Vishnu S. Chempazhanthiyil)

Vs

- 1 The General Manager
O/o the General Manager
Telecom, Thiruvalla.
- 2 The General Manager (Finance)
O/o the Chief General Manager
Telecom, Kerala Circle
Thiruvananthapuram.
- 3 The Director (Finance)
BSNL Corporate Office
Bharat Sanchar Bhavan
Janpath, New Delhi - 1
- 4 The Chairman & Managing Director
Corporate Office, BSNL
New Delhi.

..... Respondents

(By Advocate Mr. George Kuruvila)

The Applications having been heard on 20th December, the
Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

As the facts are identical and the issue raised in these two Applications is similar, they are heard together and are being disposed of by this common order.

2 The applicants who are a Junior Accounts Officers of BSNL are challenging their transfer to Gujarat/Maharashtra Circles against the policy of posting Accounts personnel, on promotion, while retaining juniors.

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3 The applicant, a Junior Accounts Officer, presently officiating as Accounts Officer, on his appointment as JAO was posted at the office of GM, Telecom District Dhimapur, Nagaland for a period of 2 years and 9 months. Thereafter, he was posted to Kerala Circle in May, 2003. The grievance of the applicant is that he is now transferred to Gujarat Circle by Annexure A-1 against the principle of transfer guidelines while juniors were retained.

4 The respondents filed reply statement opposing the O.A. They stated that there is no violation of transfer guidelines and that the applicant was posted out of Kerala Circle on promotion in view of the administrative exigencies and since Gujarat Circle has 50% shortage while the Kerala Circle's shortage is only 18% in the grade of Accounts Officer.

5 The applicant filed rejoinder reiterating that the representation submitted by the applicant was not been considered.

6 The learned counsel for the respondents filed a statement to the effect that lady officials were retained in the Circle itself on the basis of the Transfer policy guidelines which contemplates that posting of unwilling female employees to hard tenure stations shall be avoided. The counsel relied on the order of the Tribunal in an identical case O.A. 731/2010 and the judgments of the Apex Court to the effect that an employee has no vested right to remain posted at one place or the other and that it is for the administration to take appropriate decisions in the matter of transfer and that such decision shall stand unless the same is vitiated by malafides or in violation of any statutory provisions.

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7 The facts in this case are more or less similar as the facts in O.A. 507/2010, the only difference is that he has been transferred to Maharashtra Circle instead of Gujarat Circle. The respondents have also filed identical reply statement.

8 I have heard the parties and perused the documents produced before me.

9 The main contention of the applicants is that the transfer is against the transfer policy. According to them, the transfer is to be effected depending on the length of stay in the Circle and that persons who had no tenure outside Kerala are retained in Kerala and that they

having worked outside Kerala for two years and 9 months, are entitled to be continued in Kerala Circle for 15 years. The contention of the respondents on the other hand are that there are shortages in Gujarat Circle and that cases of lady officials who were posted at NE-I and Gujarat Circles it was done inadvertently and hence had to be reconsidered for retention in accordance with the transfer guidelines.

10 I find that the applicants who are regular Junior Accounts Officers, are promoted to the grade of Accounts Officer on regular basis necessitating the present transfer. Therefore, it is not a general rotation transfer. Once they accept the promotion, they have to be prepared for a transfer outside the home circle, since they have All India transfer liability. In the circumstances, the question of station seniority etc. have no role to play.

11 The applicants have produced at Annexure A-I, the promotion and posting orders of 196 accounts officers issued by the BSNL Corporate Office, Delhi, the 4th respondent. The policy adopted is to post the seniormost Accounts Officers, against available vacancies, in the same circle, while ensuring that remaining vacancies are distributed in an equitable manner, in all the circles. Gujarat circle happened to have 50% vacancies and perhaps to a lesser extent in Maharashtra Circle. To facilitate smooth functioning of accounts work, it became essential to post officers from other Circles, to Gujarat, Maharashtra, Jammu & Kashmir, NE and Punjab circles. The respondents cannot be faulted, as BSNL is subjected to external auditing now and hence billing and other accounting work has to be completed in a time bound manner. Moreover, all departments have to submit Budget estimate and Revised estimates in

time apart from preparing performance and outcome budget statements. So no circle can remain under staffed for too long. Moreover, apart from two male officers at Serial No. 153 and 156 of A-I others who are junior to the applicants at Serial Nos. 128 and 141 are all lady officers who can be retained in same circle as per Clause 11 (f) of the transfer policy guidelines issued by the 4th respondent. The same is extracted below:-

(f) For considering executives for tenure posting on transfer, the executives with longest stay in a particular circle would be considered first. Female executives would also be encouraged to serve in tenure postings. However, posting of unwilling female executives to hard tenure stations would be avoided. Due recognition to female executives who have served in hard tenure locations shall be given in their ACRS."

The male officer at Serial No. 153 is retiring in 2012 and the other one at Serial No. 155 has spent 21 years in Gujarat Circle.

10 In this view of the matter, I do not find any infirmity with the impugned order of transfer. The O.A is dismissed. No costs.

Dated 7th January, 2011

K. NOORJEHAN
ADMINISTRATIVE MEMBER

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