

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Original Application No. 597 of 2010

Thursday, this the 2nd day of September, 2010

CORAM:

Hon'ble Mr. K. George Joseph, Administrative Member

P.V. Saify,
S/o. Late P.T. Varkey,
S.D.E. Tech.,
Office of the Area Manager/DGM,
BSNL, Thodupuzha,
Residing at Puthussery,
Thalayolaparambu, Kottayam District. ... Applicant.

(By Advocate Mr. V. Sajith Kumar)

versus

1. The Bharath Sanchar Nigam Limited,
Represented by its Chairman, Managing Director,
New Delhi.
2. The Chief General Manager,
Telecom, BSNL Bhavan,
Ernakulam, Kochi – 682 016
3. The Principal General Manager,
Telecom, BSNL Bhavan,
Ernakulam, Kochi – 682 016
4. Assistant General Manager Telecom (Admn),
O/o. The Principal General Manager,
Telecom, BSNL Bhavan,
Ernakulam, Kochi – 682 016
5. Sobha P.N., SDE,
Idukki Telecom Sub Division,
BSNL, Idukki.
6. K.S. Harikrishnan, SDOT,
Muttom, Idukki District. ... Respondents.

(By Advocate Mr. George Kuruvilla for R1-4)

The application having been heard on 02.09.2010, this Tribunal on the same day delivered the following:



ORDER

Hon'ble Mr. K.George Joseph, Administrative Member -

Aggrieved by the order of his transfer from Idukki to Thodupuzha, the applicant has filed this O.A. praying for the following reliefs :

- (i) To quash Annexure A1 and Annexure A9 to the extent the applicant is transferred from the present station.
- (ii) To direct the respondents to consider the claim of the applicant for transfer of his choice to Ernakulam/Tripunithura considering the fact that he had completed 2 years of High Range service as on March, 2010 as per the transfer policy in force at the relevant time and to pass appropriate orders enabling the applicant to work in and around Ernakulam.
- (iii) To direct the respondents to consider and pass orders on Exhibit P8 considering the fact that he had completed 2 years of High Range service as on March, 2010, as per the transfer policy in force at the relevant time and to permit the applicant to continue in the present station till such orders are passed.

2. The applicant who joined service as JTO in the year 1984, has been working as SDE at different stations within Thodupuzha for the past nine years. He was forced to shift his residence recently from Thodupuzha to Thalayolaparambu to look after his aged parents-in-law. His wife took leave without pay to take care of her parents. The applicant is a chronic kidney disease patient and also suffers from hypertension. His representation dated 01.07.2010 requesting for exemption from transfer to Idukki and for a transfer to Tripunithura/ Ernakulam has been endorsed by Area Manager Telecom, BSNL, Thodupuzha.

3. The applicant contends that Thodupuzha is declared as High Range area for the purpose of transfer as per the transfer policy and 31st March is the cut off date counting entitlement for transfer of choice. He had completed 2 years service as on March, 2010 enabling him to seek a posting of his choice. Annexure A-6 dated 22.05.2010 which took



Thodupuzha out of High Range, has no retrospective operation to take away the vested right of the applicant to seek transfer on completion of 2 years. The authorities are well aware of the personal difficulties of the applicant. Therefore, he should be transferred to Ernakulam or nearby area. He further contends that the respondents had exempted persons at Sl.No. 5, 9, 11 and 12 in the probable list from transfer without any reason.

4. The respondents contested the O.A. It was submitted that the local High Range transfer policy issued vide Annexure A3 dated 29.02.2008 was not approved by the 2nd respondent, CGMT, Trivandrum, for executives in the cadre of SDE's and above. The decision of the CGMT, Kerala Circle, Trivandrum, to consider the entire Idukki District, except Thodupuzha Phones, as tenure station was communicated vide DGM (Admn.) letter dated 26.05.2010. As per Annexure A-2 policy, the officers having the longest stay at the stations shall be transferred to the tenure stations. As Thodupuzha is not a tenure or hard station, the applicant is not entitled to choice posting. The transfer order of the applicant was issued strictly in accordance with BSNL transfer policy. Normally exemption is granted only to the employees who are identified to have serious ailment such as cancer / renal failure etc. The officials in the probable list who were subsequently exempted from transfer are either under order of regular transfer to Malappuram and Lakshadweep or are widows.

5. Arguments were heard and documents perused.

6. On considering the rival contentions the rival contentions of both the parties carefully, I find that the respondents are within their right to transfer the applicant to any place in the interest of administration. But



having regard to the fact that the applicant was working for the last nine years in Thodupuzha, which was considered as hard station for quite some time and that Annexure A-3 transfer policy was valid till it was revised and that the applicant was eligible to be considered as on 31.03.2010 for a choice posting and that Annexure A-11 assures that all who were transferred as per local transfer policy will be considered for transfer back to plain areas and above all the fact that the applicant is a chronic kidney disease patient, it would be in the fitness of things and fair and just if the respondents consider his Annexure A-8 representation dated 01.07.2010 for a transfer to Tripunithura/Ernakulam sympathetically. The said representation has been recommended by the Area Manager Telecom, BSNL, Thodupuzha for sympathetic consideration. The respondents have been considerate towards widows and officers who were transferred to Malappuram and Lakshadweep. The transfer policy exempts from transfer to hard areas those employees who have serious ailments such as cancer/renal failure etc. The applicant, by all accounts, deserves to be given utmost sympathy in the matter of a transfer to Ernakulam or nearby areas. Accordingly, the O.A. is allowed to the extent shown below.

7. The respondents are directed to consider Annexure A-8 representation dated 01.07.2010 of the applicant with utmost sympathy having due regard to his personal difficulties within a period of 45 days from the date of receipt of a copy of this order. Till a fresh order is passed as per the above direction, the stay granted on 09.07.2010 on the order transferring the applicant to Idukki will continue. No order as to costs.

(Dated, the 2nd September, 2010)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER