

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO.191 OF 2011**

Monday, this the 12<sup>th</sup> day of March, 2012

**CORAM:**

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER**

Kunhi P.P  
HR No.198004535  
Sub Divisional Engineer  
Telecommunications  
Bharat Sanchar Nigam Limited  
Kadmat Island

... Applicant

(By Advocate Mr. M.V.Thamban )

versus

1. The Principal General Manager  
Telecom, Bharat Sanchar Nigam Limited  
Ernakulam, Kochi – 16
  2. The Assistant General Manager (Administration)  
Office of the Principal General Manager  
Telecom, Kochi – 6
  3. P.K.Muthukoya  
Sub Divisional Engineer  
Bharat Sanchar Nigam Limited  
Minicoy Island – 682 559
  4. Smt.M.T.Molly  
The Assistant General Manager (Administration)  
Office of the Principal General Manager  
Telecom, Kochi – 6
- ... Respondents

(By Advocate Mr.George Kuruvilla (R1&2)  
Advocate Mr.Arunraj S (R-3) )

The application having been heard on 12.03.2012, the Tribunal on the same day delivered the following:

**ORDER**

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER**

The applicant is presently working as Sub Divisional Engineer in the BSNL and posted at Kadmat on his request. He is aggrieved by the transfer of the 3<sup>rd</sup> respondent to Amini. According to him, by the aforesaid transfer his chances to be posted to that Island is denied. The applicant is





a member of the Scheduled Tribe Community and also belongs to Amini Island. In matters of transfer where there is no malafides, the Court cannot interfere and if it is made in the exigencies of the administration. The 3<sup>rd</sup> respondent would submit in his reply statement that he had been working in the hard station for more than four years. Further, his mother got paralysed and his wife is also employed at Amini. The policy of the Government is also to post him where his wife is working.

2. The official respondents would also support the contentions of the 3<sup>rd</sup> respondent. It is submitted that the applicant has worked in the island between 1984-1990 and also from 1993 to 1997 for about 10 years in two spells. Therefore, he has not been given a chance to be posted at Amini Island. The 3<sup>rd</sup> respondent is working at Minicoy from 2006 onwards where the applicant is working at the present place of Kadmat from 18.04.2009. Minicoy Island is the hardest tenure Island declared by BSNL and the hard area allowance at Minicoy is 25% of the basic given to the employees for working in the hard area. No other Island was declared as hard area having 25% hard area allowance. Further the transfer of the 3<sup>rd</sup> respondent is necessitated due to requirement of staff at hard / difficult / unpopular stations and taking into account of the incoming request of staff working at that station for a long time and to ensure proper service to the customers. As per service records, the applicant was posted as SDE CTO, Kavarathy with effect from 16.06.2001 on officiating promotion. The allegation that the 3<sup>rd</sup> respondent was transferred to Amini Island by exerting influence over the authorities is denied. There was no malafides or extraneous consideration in ordering the transfer. The averment that at the instance of the 2<sup>nd</sup> respondent, the 3<sup>rd</sup> respondent got the relieving order



instance of the 3<sup>rd</sup> respondent the 3<sup>rd</sup> respondent got the relieving order  
extensive consideration in ordering the transfer. The allegation that he is  
exercising influence over his superiors is denied. There was no malice or  
allegation that the 3<sup>rd</sup> respondent was transferred to Amin Island by  
C/O Kavaritilly with effect from 18.08.2001 on officiating promotion. The  
customers as per service records the applicant was posted as SDE  
working at that station for a long time and to ensure proper service to the  
tributary stations and taking into account of the incoming request of staff  
respondent is necessitated due to requirement of staff at said difficult  
hard area having 25% hard area allowance. Further the transfer of the 3<sup>rd</sup>  
employees for working in the hard area. No other island was decided as  
and the hard area allowance at Minicoy is 25% of the basic given to the  
18.08.2001. Minicoy island is the hardest tenure island decided by BSI  
where the applicant is working at the present place of Kadmat from  
Amin Island. The 3<sup>rd</sup> respondent is working at Minicoy from 2005 onwards  
in two spells. Therefore, he has not been given a chance to be posted at  
island between 1984-1990 and also from 1993 to 1997 for about 10 years  
the 3<sup>rd</sup> respondent. It is submitted that the applicant has worked in the

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a member of the Scheduled Tribe Community and also belongs to Amin

immediately thereby enabling him to join at Amini Island is also denied. The transfer order of Hassan Manikfan along with four others was issued to meet the operational requirements in high range / hard areas. It is true that meanwhile, CGMT, Trivandrum has issued promotion order to Hassan Manikfan for officiating as Divisional Engineer. There is no illegality in Annexure A-3 transfer order. The contention of the applicant that he never got a chance to work at Amini is also incorrect as he had worked at Amini for about 10 years in Telephone Operator Cadre.

3. I have heard the counsel for applicant, the counsel for the official respondents and the counsel for the 3<sup>rd</sup> respondent. The question as to whether the transfer of the 3<sup>rd</sup> respondent is made in preference to the applicant is due to any malafide exercise the power, arises for consideration. Undisputedly, the applicant had worked in Amini for more than 10 years. It is not correct to say that he has never been transferred to Amini Island. Secondly, the wife of the 3<sup>rd</sup> respondent is working at Amini and thirdly the applicant was transferred along with three others. Therefore, there is no malafide exercise of power has been proved under Article 226 of the Constitution of India, where judicial review is not permissible.

4. I find no reason to interfere in the transfer order. OA is **dismissed**. No costs.

Dated, the 12<sup>th</sup> March, 2012.



**JUSTICE P.R.RAMAN**  
**JUDICIAL MEMBER**

immediately thereby enabling him to join at Amni Island is also denied. The transfer order of Hassan Manikta along with four others was issued to meet the operational requirements in high range areas. It is true that meanwhile, CGMT, Tiruvannam has issued promotion order to Hassan Manikta, or officiating as Divisional Engineer. There is no illegality in Annexure A 3 transfer order. The contention of the applicant that he never got a chance to work at Amni is also incorrect as he had worked at Amni for about 10 years in Telephone Operator Cadre.

3. I have heard the counsel for applicant, the counsel for the official respondents and the counsel for the 3<sup>rd</sup> respondent. The question as to whether the transfer of the 3<sup>rd</sup> respondent is made in preference to the applicant is due to any malafide exercise the power, arises for consideration. Undoubtedly, the applicant had worked in Amni for more than 10 years. It is not correct to say that he has never been transferred to Amni Island. Secondly, the wife of the 3<sup>rd</sup> respondent is working at Amni and thirdly the applicant was transferred along with three others. Therefore, there is no malafide exercise of power has been proved under Article 226 of the Constitution of India, where judicial review is not permissible.

4. I find no reason to interfere in the transfer order. OA is dismissed. No costs.

Dated, the 13<sup>th</sup> March, 2012

JUSTICE P. R. RAMAN  
JUDICIAL MEMBER