

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
O. A No. 197 of 2011

Dated this the 04<sup>th</sup> day of April, 2012

CORAM:

HON'BLE Ms K.NOORJEHAN, ADMINISTRATIVE MEMBER

Komaladas M.P, S/o M.R.Prabhakaran, JTO, BSNL,  
Kalpathy, Palakkad SSA, R/o D-29 Krishna New Civil  
Nagar, Near Civil Station, Palakkad District. - Applicant.

(By Advocate Mr. V. Sajith Kumar)

Versus

- 1 The Bharath Sanchar Nigam Limited,  
Represented by its Chairman & Managing Director,  
New Delhi - 110 001.
- 2 The Chief General Manager, Bharath Sanchar Nigam Ltd,  
Trivandrum - 695 033.
- 3 The Principal General Manager, Telecom, BSNL Bhavan,  
Palghat - 678 001.
4. The Principal General Manager, Telecom, BSNL Bhavan,  
Kannur - 670 001.

Respondents.

(By Advocate Mr. V. Santharam)

This application having been heard on 04.04.2012, the Tribunal delivered the following:

ORDER

HON'BLE Ms K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant in this Original Application working as JTO at Palghat is aggrieved by his transfer to Uppala, Kasargod in contravention to the transfer policy.

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2 According to the applicant, he has hardly 4 years left for his superannuation. As per transfer guidelines, upto STS level, the transfer of officers involving change of station would normally be avoided after 56 years for inter circle transfer and after 57 years for intra circle transfers. For intra circle transfer, station tenure is to be calculated with effect from the date of promotion to the JTO category which was only on 2.12.2002 in his case. He produced Annx.A3 to show that one Narayananunni P.M, (staff No.197805964) is continuously staying in the same SSA for 32.3 years. The applicant avers that as he has now completed 57 years, he need not have been subjected to intra circle transfer as per clause 11(k) of Section B of Annx.A2, transfer policy guidelines. Moreover, according to clause 6(c) and (g) respondents have to consider his request for transfer back to Palghat. He is suffering from old age diseases such as blood pressure, diabetes, etc. His wife is employed in Calicut and his son is studying at the local school. He has to look after his 80 year old bedridden mother who is staying with him. He alleged that the present transfer would dislocate his family and cause him hardship in many ways. He has represented to reconsider his transfer vide letter dated 04.03.2011 at Annexure A-4. As per clarification dated 07.03.2011 at Annexure A-5, mass transfers on account of long stay is discouraged.

3 The respondents opposed the O A on the ground that the applicant's post is a transferable post. Transfer is an incidence of service. There is no allegation either of violation of rules or discrimination. The present transfer is not penal in nature. The transfer of the applicant is only intra circle within the State of Kerala. It is effected in the interest of administration to balance the shortage of JTOs in the various SSAs of the Circle. The applicant has already completed 28.2 years of service at Palghat. He has not crossed 57 years of age as on the cut off date on 31.03.2011 for computing station tenure. When the long stay list of the concerned SSA was released vide Annx.A3, the applicant did not file any objection. The transfer of the

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applicant is based on his long stay at Palghat. Therefore, the respondents submit that the transfer order is issued in full compliance of the transfer policy guidelines.

4 Heard Mr. V. Sajith Kumar, learned counsel for the applicant and Mr. V Santharam learned counsel for the respondents and perused the records.

5 The transfer policy guidelines at 11 (a) of Section B prescribes a 4 years post tenure and 10 years station tenure for Group B staff. Admittedly, the applicant has completed 10 years station tenure as JTO, at Palghat. Hence, the respondents cannot be faulted for transferring him to Uppala, along with four others from Palghat, to meet the shortage of JTO, in Uppala. They have stated that shortage in unpopular stations can only be met, by way of transfer. The counsel for the applicant, stated during hearing that the applicant has joined Uppala, as no stay was granted by this Tribunal.

6 The learned counsel for the applicant drew my attention to the decision of this Tribunal in OA No.195/2011, K.Kaladharan Vs. BSNL decided on 22<sup>nd</sup> March 2012. He argued that the O.A is squarely covered by the order issued by the coordinate Bench of this Tribunal in O.A 195/2011. The relevant portion of the order is extracted below:

"5 Transfer is an incidence of service. After 28.2 years of long stay at a particular place, if the applicant is given an intra circle transfer in the interest of administration, following the guidelines of transfer, there should not be normally any ground for genuine grievance. Even so, if the applicant has got personal problems meriting consideration, it is only fair that it should be considered by the respondents objectively. The representation of the applicant dated 04.03.2011 at Annexure A-4 against his transfer has not been replied to. If the applicant is not already relieved, he should not be relieved till his representation is considered on merit by the 2nd respondent and the decision thereon is communicated to the applicant by a speaking order within a period of two months from the date of receipt of a copy of this order."

7 In my considered opinion, the present O.A before me is squarely covered by the aforementioned Original Applications. In the facts and circumstances of the case, the 2<sup>nd</sup> respondent is directed to consider the Annexure A-4 representation of the applicant, take an appropriate decision

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and communicate the same by a speaking order within a period of two months from the date of receipt of a copy of this order.

8 O.A is disposed of as above with no order as to costs.

(Dated: 14.4.2012)

  
(K.NOORJEHAN)

ADMINISTRATIVE MEMBER

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