

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.262/2002.

Wednesday this the 17th day of April 2002.
CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

M.Johny, Senior Accounts Officer,
Office of the General Manager,
Telecom, Kottayam, presently working as
Chief Accounts Officer (Officiating)
Alappuzha.

Applicant

(By Advocate Shri Shafik M.A.)

Vs.

1. Union of India represented by
Secretary, Department of
Telecommunication Services,
Ministry of Communications,
New Delhi.

2. The Chairman cum Managing Director,
Bharat Sanchar Nigam Ltd.,
Sanchar Bhavan, New Delhi.

3. The Assistant Director General,
Directorate of Telecommunication
Services, Sanchar Bhavan,
New Delhi.

Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 17th April 2002
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant who is the Senior Accounts Officer in the office of the General Manager, Telecom, Kottayam, officiating as Chief Accounts Officer, Alappuzha, has filed this application impugning A-1 order dated 22.3.2002 to the extent of his transfer from Kerala to Gujarat as Senior Accounts Officer. It is stated that the applicant is an Orthopaedically handicapped person with 45% disability of post Polio residual paralysis in the left upper and lower limbs, that his transfer* to Gujarat at this juncture in the present state of health would be hazardous to his life and

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that he has made a representation for retention in Kerala Circle to the 2nd respondent. Apprehending that the applicant would be relieved before the 2nd respondent would take a decision on his representation, the applicant has filed this application seeking to quash Annexure A-1 order to the extent it relates to the applicant declaring that the applicant is entitled to continue in his present place of posting and for a direction to the respondents to dispose of A-5 representation in the light of A-3 and A4 certificates.

2. I have heard the learned counsel of the applicant and perused the materials placed on record. I have also heard Shri C.Rajendran, learned Senior Central Government Standing Counsel for the respondents. Shri Rajendran states that the transfer has been made in the exigencies of service.

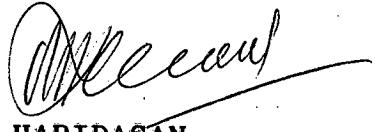
3. Judicial intervention with routine administrative orders like transfer can be justified only in exceptional circumstances where the order is vitiated by malafides or colourable exercise of power. However, when an order of transfer is served on an official, if he has got some pressing personal problems like health condition, an opportunity for making a representation to the competent authority for a reconsideration also has to be granted in the fitness of things. Under these circumstances, I am of the considered view that the interests of justice demand a

direction to the 2nd respondent to consider the applicant's representation (Annexure A-5) and to give him an appropriate reply.

4. In the light of what is stated above, I dispose of this application directing the 2nd respondent to consider Annexure A-5 representation submitted by the applicant taking into account the physical condition of the applicant reflected in Annexures A3 and A4 certificates and to give him an appropriate reply as expeditiously as possible.

5. In view of the fact that the applicant is a handicapped person I also direct that till a decision of the 2nd respondent on A-5 representation is served on him, the applicant shall not be relieved on the basis of the impugned order. There is no order as to costs.

Dated the 17th April, 2002.



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the relevant extract of the order No.3.31/02 -SEA-BSNL dt.22.3.02 issued by the 3rd respondent.
2. A-2 : True copy of the order No.ST-II/1-1/A0/2000 dated 24.5.2000 of the Chief General Manager, Telecom, Kerala Circle.
3. A-3 : True copy of certified copy of the Medical certificate dated 27.4.2000.
4. A-4 : True copy of certified copy of the Medical certificate dated 30.5.2000.
5. A-5 : True copy of the representation dated 26.3.2002 submitted to the 2nd respondent.

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