

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.370/2003.

Monday this the 16th day of June 2003.

CORAM:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Saseendran, Kulathinkal House,
Poonjar (S) PO, Kottayam District,
(Working as Telecom Mechanic Indoor, B.S.N.L.
Telephone Exchange, Erattupetta). Applicant

(By Advocate Shri Johnson Manayani)

Vs.

1. Radha Remanan Nair K.D., Divisional Engineer,
(Phones), B.S.N.L. Erattupetta, Kottayam District.
2. Sub Divisional Engineer, (Internal),
B.S.N.L. Erattupetta, Kottayam District.
3. Area Manager, B.S.N.L., Palai Post,
Kottayam District.
4. General Manager, B.S.N.L., Kottayam P.O.,
Kottayam.
5. Union of India, represented by Secretary,
Government of India, Ministry of Communications,
New Delhi. Respondents

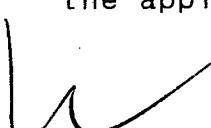
(By Advocate Shri C.Rajendran, SCGSC (R.2-5)

The application having been heard on 16th June 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant was working as Telecom Mechanic Indoor under the 2nd respondent. He belongs to Scheduled Caste community. He was trained by the department, for the Indoor Mechanic work only and he was doing the same work for all these years. The applicant was transferred by the 3rd respondent from the post of Indoor Mechanic at Erattupetta Telephone Exchange to Outdoor Mechanic at Erattupetta. Aggrieved by the said transfer order the applicant has filed this O.A. seeking the following reliefs.



- "a) Call for the records, leading to the issuance of Annexures A-1, A2 and to quash the same, transferring the applicant from Telecom Indoor Mechanic to Telecom Outdoor Mechanic, under the 2nd respondent.
- b) Declare that, the Annexures A1 and A2 are incorrect, illegal and legally unenforceable.
- c) Award costs and incidental to this application.
- d) To grant such other reliefs as may be prayed for and which this Hon'ble Tribunal may deem fit and proper to grant in the circumstances of the case."

2. The respondents have filed a reply statement opposed the O.A. by raising the initial plea that the Tribunal has no jurisdiction to entertain this application. The applicant, a Telephone Mechanic, is in a Group 'C' cadre of the erstwhile Telecom Department under the Ministry of Communications. All the employees in Group 'C' and 'D' cadre of the erstwhile Telecom Department had already been absorbed into Bharat Sanchar Nigam Limited (BSNL for short). The applicant had also been permanently absorbed into BSNL, a registered company, having Corporate Office at New Delhi, providing Telecom services in the country with effect from 1.10.2000 and the applicant is receiving regular salary and allowances and other perks, granted by the BSNL from time to time. A copy of the order of permanent absorption in respect of the applicant, Shri K.Saseendran, Telecom Mechanic is produced as Annexure R-1. BSNL is a corporation incorporated under the Registrar of Companies Act and therefore, the same is a Company, limited by shares. It is further submitted that the BSNL which has been incorporated under the Companies Act, has filed a duly verified declaration, that the conditions of Section 149(2) to (c) of the Companies Act have been complied with. Since the BSNL has become a Corporation controlled by the Government of India, in order to get

jurisdiction to this Tribunal to deal with the service matters of the employees of the BSNL, there should be a notification issued by the Central Government under Section 14(2) of the Central Administrative Tribunal Act, specifying that this Tribunal can exercise all the powers and authority to deal with the matters in relation to matters concerning recruitment and all other service matters of the employees of the BSNL. Union of India has not issued such a notification as stated above and therefore, it is submitted that this Court has no jurisdiction to entertain such a petition.

3. This Tribunal in O.A.492/02 and in other connected matters, after a detailed enquiry has passed an order and declared that this Court will not have any jurisdiction to entertain such applications. This Court also held that the notification under Section 14(2) of the Administrative Tribunal's Act, is a condition of precedent in bringing this institution under the jurisdiction of this Tribunal. Hence, I am in respectful agreement with the orders of this Tribunal in O.A.492/02 and hold that this Tribunal has no jurisdiction to entertain this application and it deserves to be dismissed on the question of jurisdiction. This Court is not making any observations regarding the merit of the case since on the preliminary issue of jurisdiction itself, the O.A. is being rejected.

4. This Court has passed an interim order on 2.5.2003 in which it was ordered that no further action in pursuance of A-1

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and A-2 in so far as it relates to the applicant should be taken, and it was subsequently extended till this date. Learned counsel for the applicant submitted that the respondents have flouted the order of this Tribunal and suo motu contempt to be initiated.

5. Learned SCGSC on the other hand submitted that the directions of this Tribunal had never been flouted because the order was, "no action in pursuance of A-1 and A-2 , as far as it relates to the applicant shall be taken". The applicant has already been relieved on that date and therefore, the question of re-joining the station does not arise and therefore, there is no violation of this Court's order. It is well settled legal position that "an order or a decree passed without jurisdiction by the Court is 'non-est' in law". Considering the above facts and legal position, the O.A. is dismissed but in any case, the applicant is permitted to seek redressal of his grievance if any, in the appropriate forum if he so desires. The O.A. is dismissed. In the circumstances, no order as to costs.

Dated the 16th June 2003.



K.V.SACHIDANANDAN

JUDICIAL MEMBER

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