

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

(6)

O.A.No. 456
T.A.No. xxxx

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DATE OF DECISION 4-9-1987

Hriday Narain Singh Applicant/s.

Applicant in person Advocate for the Applicant/s.

Versus

Union of India & Ors. Respondent/s.

Mr. S.R. Atre (for Mr. P.M.
Pradhan) Advocate for the Respondent(s).

CORAM:

The Hon'ble Vice-Chairman B.C.Gadgil
The Hon'ble

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Y 95
2. To be referred to the Reporter or not ? - NO
3. Whether to be circulated to all Benches? - M

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A. 456/87

Hriday Narain Singh
Sr.Engineer,
Office of the General Manager,
Telecom Factory, Deonar,
Bombay - 400 088.

... Applicant

vs.

1. Union of India
Through Respondent
No.2
2. Director General,
Department of Telecommunications,
Department of Telecom,
Sanchar Bhavan,
New Delhi - 110 001.
3. Dy.Director General(TF),
Dept. of Telecommunications,
Sanchar Bhavan,
New Delhi - 110 001.
4. General Manager,
Telecom Factory,
Deonar,
Bombay - 400 088.
5. Shri S.K.Agrawal,
Senior Engineer,
Q.No.IV/1/1, Telecom Factory Township,
Deonar, Bombay - 400 088. ... Respondents.

Coram: Hon'ble Vice-Chairman B.C.Gadgil

JUDGMENT

Date: 4-9-1987

(Per B.C.Gadgil, Vice-Chairman)

This matter involves a short question about the transfer of the applicant from Bombay to Jabalpur.

There are certain undisputed facts. The applicant and Respondent No.5 are Senior Engineers working in the Telecom Factory at Bombay. With effect from 1-3-1987 one of the post of Senior Engineers at Bombay was abolished. Consequently it was necessary to transfer a Senior Engineer from Bombay to some other station. On 22-2-1987 the Ministry concerned passed an order (vide page 12 of the compilation) transferring Respondent No.5 to Jabalpur.

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The said order includes one more transfer of Mr.Vohra. However, that transfer of Vohra is not relevant. It seems that Respondent No.5 did not join the new post immediately. He was adjusted in certain leave vacancy for sometime at Bombay. On 8-6-1987 he was relieved from the duties at Bombay. However, he did not join his duties at Jabalpur. In the meantime the department on 6th July, 1987 modified the earlier transfer order whereunder Respondent No.5 was retained at Telecom Factory at Bombay and the applicant was transferred to Jabalpur. It is this transfer that is being challenged before me. The applicant has stated in the application various circumstances to contend how the said transfer would cause hardship to him.

The application is opposed by the department and also by Respondent No.5. The department contended that Respondent No.5 submitted a representation for his retention at Bombay and that after examining the said representation the competent authority decided to retain Respondent No.5 at Bombay. The Respondent No.5 in his reply has narrated as to how his transfer to Jabalpur was prejudicial and that the orders retaining him at Bombay were passed on account of numerous appeals which he has made for such retentions.

I heard the applicant as also Respondent No.5 in person. Mr. Atre (for Mr. P. M. Pradhan) argued the matter on behalf of the department. The applicant has stated in his application his difficulties for going to Jabalpur. He has stated that he has two sons; the elder one studying in the Junior College (i.e. 11th Standard at Chembur in Bombay) and that his second son is suffering from incurable skin disease and he is under treatment at Bombay. As against

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this the Respondent No.5 has also mentioned his own difficulties in his reply affidavit. He has alleged that his son is mentally retarded and that his daughter is studying in the final M.B.B.S. class. He has produced certain representations made by him to the department. He has stated therein that his son who is mentally handicapped got an admission with great difficulty in a school for children who needs special care. During the course of the argument Respondent No.5 submitted that he will not be able to make any arrangements for the education of his mentally retarded son at Jabalpur. He has produced along with his reply a certificate from the President of the Association For the Welfare of Persons With a Mental Handicap in Maharashtra. The certificate states that the son of Respondent No.5 is a student of Sevadaan Special School at Chembur, which was inaugurated by Mother Teresa and that the said school is conducting classes for mentally retarded children. The certificate further states that such facilities for mentally retarded persons are not available in each and every places. They are available in Bombay and other big Metropolitan Cities only.

I have referred to the difficulties of the applicant and Respondent No.5 not with a view to decide myself as to who between them should be retained at Bombay and who should be transferred to Jabalpur. Ordinarily the transfer of an employee is the administrative function of the concerned authority and it appears that the concerned authorities take into account amongst other things the personal difficulties of the employees. However, as stated above here the applicant as well as Respondent No.5 have ^{after} their own difficulties and it appears that taking into account the



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difficulties of Respondent No.5 the concerned authority decided to cancel the transfer of Respondent No.5 to Jabalpur by directing his retention at Bombay. In my opinion this Tribunal would be very slow to interfere with such kinds of transfer order.

Though it is not pleaded in the application it was suggested by the applicant during the course of his arguments that Respondent No.5 has got the order in his favour after putting political pressure on the department. The Respondent No.5 while making his submissions denied this allegation. However, I do not propose to consider the submissions in the absence of any averments in the application. It was next urged by the applicant that the department has committed an error in retaining the Respondent No.5 at Bombay after he was already relieved from Bombay on 8-6-1987. Such relief would not prevent the department from passing any other order after taking into account the difficulties of the Respondent No.5.

It seems that from February, 1987 till June, 1987 Respondent No.5 was accommodated in certain leave vacancies that arose at Bombay. The applicant made a grievance that such accommodation could not have been allowed by the Bombay office as in the case of Senior Engineers it is the Delhi office that has to make leave arrangements. This aspect, however, is not relevant at all. However, I am making a mention of it as submission in that respect was made before me.

In view of the above discussions I do not think that the applicant has made out any case for interference

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at the hands of the Tribunal in the department's order under which the applicant has been transferred to Jabalpur after retaining the Respondent No.5 at Bombay. The application is therefore dismissed. There would be however, no order as to cost.

B.C.Gadgil
(B.C.GADGIL)
Vice-Chairman