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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
CIRCUIT SITTING AT PANAJI, GOA

O.A. No. 361/89
~~XXX~~ Nox

198

DATE OF DECISION 7-3-1990

R.Y.Chougule Petitioner

Mr.M.R.Achar Advocate for the Petitioner(s)

Versus

The Chief General Manager Telecom Respondent
Maharashtra Circle and ors.

Mr.G.U.Blobe. Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. ..

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

With kind regards
(M.Y.PRIOLKAR)
Member(A)

(15)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT PANAJI, GOA.

O.A.361/89

R.Y.Chougule,
J.T.O.,
Office of the S.D.O.T.,
Ponda-GOA. .. Applicant

vs.

1. The Chief General Manager,
Telecom,
Maharashtra Circle,
G.P.O.Building, IIInd Floor,
Bombay - 400 001.
2. The Secretary,
Dept. of Telecommunication,
Sanchar Bhavan,
New Delhi.
3. The Telecom District Engineer,
Panaji,
GOA.
4. The Sub-Divisional Officer,
Telegraphs,
Ponda,
GOA and 5 others. .. Respondents

Coram: Hon'ble Member(A) Shri M.Y.Priolkar.

Appearances:

1. Mr.M.R.Achar
Advocate
for the applicant.
2. Mr.G.U.Bobe,
Advocate for the
Respondents.

ORAL JUDGMENT
(Per M.Y.Priolkar, Member(A)) Date: 7-3-1990

The applicant in this case while working as Junior Telecom Officer(Maintenance) at Ponda, Goa was transferred by order dated 1-5-1989 as Junior Telecom Officer(Auto Installation) to Panaji, Goa. The applicant's grievance is that he is being harassed from the beginning of his service by frequent and, according to him unjustifiable, transfers and also by other means. He alleges that in the course of his official duties he has been fearlessly exposing the

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irregularities committed, and corrupt practices indulged in, by the departmental officers and, therefore, an adverse opinion has been formed against him in the minds of his superior officers which explains the frequent unjustified transfers. The prayer of the applicant is for quashing and setting aside the order dated 1-5-1989 transferring him from Ponda to Panaji or, alternatively, for allotting him a departmental quarter at Panaji or permitting retention of the quarter in his occupation at Ponda, and also that his future transfers should be restricted to Goa division only.

2. The applicant has explained at great length in his application what, according to him, are the various harassments meted out to him by way of frequent transfers and other means right from 1975. The respondents have denied all these allegations and any malafides. After hearing both the sides, I do not think it is necessary for the purpose of the present application, to go into the rival contentions regarding malafides in the orders regarding his earlier service or earlier transfers, as the specific reliefs prayed for by him in this application are related only to the present transfer from Ponda to Panaji.

3. The circumstances in which this present transfer order dated 1-5-1989 has been issued may be briefly narrated. The applicant was working at Vasco, Goa when he was deputed to work at Ponda, Goa on 7-6-88. Subsequently on 17-6-1988 he was transferred to Ponda. Within one year thereafter, he has been transferred by order dated 1-5-1989 to Panaji, Goa. The applicant alleges that there were some reports published in the

local newspapers in April, 1989 or thereabout praising the applicant's work at Ponda, at the same time unfavourably commenting on the corrupt practices of some of his local supervisory officers. The applicant claims that the real reason for his transfer from Ponda is to be found in these newspaper reports. It is, however, seen from the transfer order dtd. 1-5-1989 that this order was based on the directions of the Chief General Manager Telecommunication, Maharashtra Circle, Bombay communicated by letter dtd. 13-4-1989 of the Asstt. General Manager (Staff) Bombay. The earliest of the newspaper reports referred to by the applicant also appeared on 13-4-1989 i.e. the same day on which the approval of the General Manager for the transfer was conveyed. It is, therefore, difficult for me to accept the existence of any nexus between these newspaper reports and the transfer order as contended by the applicant.

4. The reasons given by the respondents in their written reply for this transfer are that the Chief General Manager (Telephones) Bombay had decided that the officer who had actually installed the new equipment for a new Auto Exchange at Ponda which was commissioned on 31-3-1989 would be the best person to look after its maintenance also during the initial operational phase. Since the applicant was earlier incharge of the old manual exchange which was now converted into auto exchange and there was no other vacancy available at Ponda itself and since the respondents also wanted to give some experience in installation work on auto exchange to the applicant, the applicant came to be transferred to Panaji auto installation, which place is hardly 30kms. from Ponda from where he has been transferred. I do not see anything

unreasonable in this reasoning of the respondents.

It stands to reason that when a person installs a new equipment, he should normally be the best person to overcome any initial difficulty that may crop up on its commissioning. While the applicant's advocate conceded that intrinsically this may be a good principle, he alleged malafides on the basis that this principle is sought to be applied only in the case of the applicant for the first time. The counsel for the respondents denied that this is a new principle being enforced only in the case of the applicant and according to them it is a principle which is being generally followed in such cases. The applicant had also not taken this plea earlier that he has been singled out for transfer by applying this principle. For all these reasons, the contention of malafide raised by the applicant against the respondents, at least as far as the present transfer from Ponda to Panaji is concerned, has to be rejected.

5. The respondents have also contended that the applicant has not alleged any malafides against the Divisional Telecom Engineer who has actually issued the transfer order dated 1-5-1989 from Ponda to Panaji or the Chief General Manager(Telephones) Maharashtra Circle, Bombay, whose approval had been ~~not~~ obtained for this transfer of the applicant from Maintenance to operation side. The applicant's contention is that the local officers are not well disposed of to him and they have managed to get this transfer order approved by the Chief General Manager. The applicant is not, however, able to substantiate this allegation by any evidence. As discussed earlier, since the principle followed is a sound one in this transfer, in the absence of any specific evidence it is not possible to accept

that the Chief General Manager has not applied his mind before approving his transfer. I accordingly hold that the present transfer order is not vitiated by any malafides nor can it be considered to be either arbitrary, perverse or based on any extraneous considerations.

6. The alternative prayer made by the applicant is for immediate allotment of a quarter to him at his new place of posting at Panaji or retention of existing quarter at his old place Ponda. I do not see any justification in this prayer of the applicant. Admittedly, there are statutory rules for allotment of government quarters and it will be patently unfair to other employees who have been waiting patiently for their turn for the quarters, to give any direction to the respondents for an out of turn allotment in favour of the applicant. Similarly, for retention of the applicant's existing quarter at Ponda, the rules provide for a limited period of retention after transfer, or for additional extended period in the interest of children's education or medical attention etc. It is for the applicant to apply to the competent authority for retention of the old quarter for any such period as may be permissible under rules and the competent authority, no doubt, will decide the application on merits in accordance with the rules. I do not think it is necessary to give any specific direction to the respondents in this regard.

7. The second prayer in this application is that his deputation to installation wing should be restricted to Goa division only. Admittedly, there is a provision at present for transferring any employee from installation wing to maintenance wing and vice-versa, and the transfer liability extends to the entire circle,

namely, the Maharashtra Circle in this case. The applicant's prayer that he should be singled out for a favoured treatment by restricting his transfer liability to only Goa division is not, therefore, justified. If all the other employees similarly placed like him are liable for transfer within the entire Maharashtra Circle, I do not see how this Tribunal can give direction that only in the case of the applicant this liability should be restricted to Goa division alone.

8. In the light of the foregoing discussions I see no merit in this application which is accordingly dismissed with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)

Judgement dt. 7.3.90

Served on Applicant

LR. NO. 1, 3 & 4/90

dt. 25.4.90,

21.4.90

15/5190

Judgement dt. 7.3.90

Served on R. NO 2/90

15/5190