

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 824/96 199

Date of Decision: 4.10.96

Hakikat Rai Oberoi

Petitioner/s

Shri M. Mahalle.

Advocate for the
Petitioner/s

V/s.

Union of India and others.

Respondent/s

Shri V.S. Masurkar.

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri **B.S. Hegde, Member (J)**

Hon'ble Shri

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to **S** other Benches of the Tribunal ?


(B.S. Hegde)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO: 6
PRESCOT ROAD, BOMBAY :1

Original Application No. 824/96

the 04th day of October 1996.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Hakikat Rai Oberoi
Senior Engineer,
Telecom Factory,
Deonar, Mumbai - 400088.

...! Applicant.

By Advocate Shri M.A. Mahalle.

V/s.

Union of India through
The Chairman Telecom
Commission, Sanchar Bhavan,
Ashoka Road,
New Delhi.

The Chief General Manager
Telecom Factory,
Deonar, Mumbai- 400 088.

... Respondents.

By Advocate Shri V.S. Masurkar.

O R D E R

(Per Shri B.S. Hegde, Member (J))

Heard counsel for the parties.

2. In this O.A. the applicant has challenged the relieving order passed by the respondents dated 2.8.96, stating that from that date the name of the applicant will stand struck off from the roll of the factory from 2.8.96 A.N. It may be recalled that the applicant has earlier filed an O.A. 574/96 which has been dismissed by this Tribunal by its order dated 24.6.96 on the ground that the representation of the applicant was pending with the respondents and before the disposal of the representation the applicant has approached this Tribunal, he has not exhausted the statutory remedy as per Section 20 of the A.T. Act. Accordingly application was treated as premature and dismissed.

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3. Pursuant to the direction of the Tribunal, the respondents vide their letter dated 1.8.96 considered the representation of the applicant and stated that the request of the applicant has been considered sympathetically by the competent authority, but it has not been found possible to accede to the request of the applicant. The applicant may, therefore be struck off the strength of Telecom Factory, Mumbai with immediate effect and directed to report to the Chief General Manager, Telecom Factory Jabalpur. and relieve order was issued on 2.8.96.

4. During the course of hearing the learned counsel for the applicant urged that the relieve order passed by the respondents is arbitrary in nature and the applicant has been discriminated with that of his senior colleague who were allowed to stay at Bombay more than the stay of the applicant in Bombay. Thereby it amounts to discrimination under Article 14 and 16 of the Constitution. However on perusal of the pleadings I find that the applicant has not made out any ground that the transfer issued by the respondents is based on malaficious action of the respondents or any arbitrariness on the part of the respondents.

5. The respondents in their reply denied the various contention of the applicants. The applicant is a Group 'A' Officer in the Senior Time Scale. In fact the applicant was promoted as back as 6.1.95 in the grade of Senior Engineer, Telecom Factories, in Senior Time Scale of GOS Group 'A' in the pay scale of Rs. 3000- 4500 , therefore transferred to Kharagpur. The applicant was however allowed to remain in Bombay for one year in consideration of the applicant's own

request. Which is clear from the letter of the respondents dated 23.3.95 wherein it is stated that the applicant who stands transferred to Telecom Factory Kharagpur on promotion shall remain at Telecom Factory, Bombay for a period of one year. Therefore the learned counsel for the respondents states that the cause of action is of the year 1995.

6. The learned counsel for the applicant, Shri Mahalle has relied upon the ratio laid down in the case of Rajendra Roy v/s. Union of India AIR 1993 SC 1236 in support of his contention. On perusal of the judgement I find that the Apex Court has clearly held that the personal hardship cannot be a ground for quashing the impugned order.

7. The respondents have relied upon the various decisions of the Apex Court and states that the transfer is an incidence of service and transfers made on administrative grounds are not open to interference by the Tribunal unless malafide, illegal or held to be in violation of the statutory rules. It is submitted that the consideration of administrative expedience and existence of exigency of service are matter falling exclusively within the jurisdiction and is a prerogative of the cadre controlling authority.

8. The learned counsel for the applicant has also relied upon the decision in the case of A.K. Kripak V/s Union of India (AIR 1970, SC 150) that decision is not helpful to the case of the applicant as the applicant has not made out any grounds that the transfer order issued by the respondents are arbitrary or Malicious.

Therefore any administrative order passed cannot be said to have passed against Article 14 unless it is proved that the order is malafide and arbitrary. Except the contention stating that the transfer order issued by the respondents is arbitrary no such materials  have been shown by the applicant in this behalf.

9. The interim relief passed on 12.9.96 is on the basis of the submission made by the applicant but the applicant has been relieved from Bombay on 2.8.96. In the result I see no merit in the O.A. Accordingly O.A. is dismissed at the admission stage itself. Interim relief passed on 12.9.96 stands vacated. No order as to costs.



(B.S. Hegde)
Member (J)

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