

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 1st DAY OF APRIL , 1987

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon'ble Shri L.H.A.REGO MEMBER(A)

APPLICATION No.932 of 1986(F)

D.B.Srinivas,
Telegraphic Assistant,
Telegraph Office,
Bijapur.

...

APPLICANT

(Shri M.R.Achar ... Advocate)

v.

Assistant Superintendent(Telegraphic
Traffic Division) in-charge,
Department of Telegraph,
Bijapur.

Senior Superintendent of Telegraph,
Traffic Division, Belgaum.

General Manager,
Telecommunications,
Bangalore Circle,
Bangalore.

...

RESPONDENTS

(Shri M.S.Padmarajaiah ... Advocate)

This application has come up before the court today.

Hon'ble Shri L.H.A.Rego, Member(AM) made the following :

D R D E R

The prayer in this fresh application is to set aside the impugned order dated 22.1.1986(Annexure-H) passed by respondent(R)-2, transferring and posting the applicant, from the Divisional Telegraph Office at Bijapur, to the Central Telegraph Office(CTO) at Belgaum.

2. The salient facts of the case leading to this application are briefly as follows: Before his transfer to Belgaum, the applicant was serving as Telegraph Assistant in the Divisional Telegraph Office, Bijapur from 1.4.1977 to 31.1.1986.

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therefore, the reasons advanced by the applicant in para-8 on page 5 of his application, for cancellation of his transfer no longer survives. Besides, according to Sri Padmarajaiah, the applicant has been serving in Bijapur for long and was thus liable for a shift. According to him, he has not been transferred to a remote corner, but to an adjoining district like Belgaum. Besides, the place of transfer is not categorised as "a bad Station", which in itself, reveals that the applicant was not transferred out of mala fides, as alleged by the applicant. His transfer bore no nexus to the various representations made by him to the higher authorities against R1.

16. We are convinced, that the applicant was transferred in public interest and not out of mala fides as alleged by the applicant. The applicant has already resumed duty at Belgaum, according to the order dated 22.1.1986 (Annexure-H) and has been serving there for quite long now.

17. In view of the foregoing, we find no merit in the application and we dismiss the same.

18. No order as to costs.

Chandrashekar
MEMBER(J) (487)

A. C. H.
MEMBER(A) (487)

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3. On 23.8.1983, the Director General, Posts and Telegraphs, New Delhi (DG), issued a Circular (Annexure-A), to all the Heads of Postal and Telecom Circles informing that the Prime Minister had announced the setting up of the "Sri Lanka Relief Fund" (Fund for short). Along with this Circular, the DG had enclosed an excerpt of the speech of the Prime Minister in the Parliament, on 12.3.1983, appealing to the citizens of India to contribute generously to the Fund. The DG had, in his above Circular, directed, that the Prime Minister's appeal be brought to the notice of all the officers and staff, working in the Postal and Telecom Circles and that the contribution to the Fund be sent to any branch of the State Bank of India (SBI) etc.

4. The applicant requested R1 on 1.10.1983 (Annexure-B) with reference to the above Circular of the DG, to adjust his arrears of DA towards his contribution of Rs.10/- to the Fund. It is stated, that R1 orally informed the applicant that the payment was to be made by those desirous through the SBI and that there was no direction to the authorities concerned, to collect the contribution and forward the same. Satisfied with this reply, the applicant is seen to have received full payment of the DA arrears.

5. The respondents state, that the applicant did not comport himself well with the public, his colleagues as well as his superiors, at Bijapur and that specific serious lapses were noticed against him, in the discharge of his duties, which occasioned the DTO In-charge Bijapur, to send a report against him on 21.2.1985 (Annexure-A1) to R2. Apprehending that this report was made out of malice against him, the applicant submitted a representation on 22.4.1985 (Annexure-C) to R2, alleging that Shri N.G.M. Deshpande, Asst. Superintendent (Telegraphic Traffic Division) in charge of the Department of Telegraph, Bijapur did not make any effort to recover

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the contribution towards the Fund and denied him his rightful duty to help the nation. He also alleged therein, that Shri Deshpande was prejudiced towards the scheduled caste community to which the applicant belonged and that he had insulted the Indian Constitution and therefore requested that the matter may be inquired into. It is stated that an ex-MLA had also received a letter narrating these facts and that a news item had appeared in a local newspaper in regard to this matter.

6. The respondents state, that R2 initiated an inquiry into this complaint and that one Shri Y.Subba, in charge of CTO, Belgaum, was directed to investigate into the matter. Investigation by the latter revealed, that the complaint against Sri Deshpande was ill-founded and that the applicant had conveyed the complaint to the local newspapers at Bijapur, Hubli and Bangalore and had endorsed copies of his representation to the President of India, Prime Minister of India, some of the Union Minister and other dignitaries and superiors in violation of discipline.

7. Sri Y.Subba, who investigated into the above complaint, was also a member of the scheduled caste. The other allegations relating to large-scale misappropriation of amounts, were enquired into by deputing one Sri S.R.Hegde, Assistant Director from the office of the Director, Telecom, Hubli, to Bijapur, but the applicant who was directed to be present on 17.7.1985 at Bijapur for the purpose of this enquiry, did not co-operate. Persuasion of the applicant by R2 to co-operate in the enquiry was of no avail.

8. The applicant was administered a written warning, for contravening Rule 20 of the CCS(Conduct) Rules, 1964, by seeking outside influence to further his service interests. Thereon, the applicant submitted representations to the higher authorities on 21.8.1985 and 13.9.1985, under the caption "Harassment to schedule caste offi-

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cials at DTO Bijapur". These representations are said to have been personally investigated into by Sri S.M.Modak, the then Senior Superintendent of Telegraphs, Traffic Division, Belgaum(SSTT). But, the allegations were found to be without basis. The applicant was therefore advised by the respondents in writing on 27.9.1985, to guard against recurrence of such unfounded allegations.

9. The applicant is said to have addressed a representation on 1.7.1985 directly to the General Manager, Tele-Communication, Karnataka Circle, Bangalore (GMT), alleging misuse of Government cash, recovered against telegraph under-charges, at the DTO Bijapur. It is stated, that this was investigated into by Sri Modak, the then SSTT, who noticed some delay in the crediting of the amounts for which appropriate action was taken against those at fault.

10. The applicant is said to have submitted yet another representation on 6.11.1985, direct to the GMT, alleging malpractice in the recovery of late fee duty. This was enquired into by the then Superintendent in-charge CTO Belgaum, but the allegations were found to be unsubstantiated.

11. Still another representation was addressed by the applicant on 8.11.1985, direct to the GMT alleging similarly against R1, This was however filed in the office of R3, as it was not addressed to the appropriate authority and as the applicant was continuous in the habit of making unfounded allegations of which Circle Office is said to have been apprised.

12. Taking into account the aforesaid report dated 21.2.1985(Annexure-R1), of the ASSTT C/o DTO Bijapur, R2 transferred the applicant on 22.1.1986 from Bijapur to Belgaum (Annexure-H). The applicant was chargesheeted under Rule 16 of the CCS(CCA) 1965, relating to imposition of minor penalty, for violation of discipline,

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in submitting representations, departing from proper channel and for unauthorisedly furnishing official information and copies of his representations to the local newspapers. The respondents state that the applicant was merely censured for the above misdemeanour taking a lenient view of the matter.

13. The applicant alleges, that he was transferred from Bijapur to Belgaum, on account of mala fides, for exposing the mal-practices of his superiors and has approached this Tribunal for redress.

14. Sri M.R.Achar, learned counsel for the applicant, contends, that his client has been transferred from Bijapur to Belgaum, out of spite, merely because he represented to the higher authorities about the irregularities committed by R-1, in regard to which, no detailed enquiry has been conducted and therefore, this transfer is tainted with mala fides. Refuting this contention, Sri M.S.Padmarajaiah, learned counsel for the respondents, submits, that the transfer was ordered in public interest, as the order dated 22.1.1986 (Annexure-H) reveals. He stated, while this transfer had no nexus with the various representations submitted by the applicant to the higher authorities against R1, the report dated 21.2.85 (Annexure-R1), submitted by the DTO In-charge Bijapur, bringing out the various deficiencies and adverse aspects in the discharge of duty, by the applicant was duly taken into account.

15. We have examined carefully the rival contentions and the material placed before us. Counsel for both parties confirm, that the applicant has already resumed duty at Belgaum, in compliance with the order of transfer(Annexure-H), since pretty long. Sri Padmarajaiah submitted, that the applicant has been dealt with leniently in the disciplinary proceedings initiated against him, for his misdemeanour and has been let off with a mere censure, and

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