

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 15-7-87

Application No. 544 to 546 /87(F)

W.P. No.

Applicant

Shri G.S. Hiriyath & 2 Ors

v/s The GM, Telecom, B'lore & another

To

1. Shri G.S. Hiriyath

4. Shri M. Raghavendra Achar
Advocate

2. Shri K.V. Parvathikar

1074-1075, Banashankari I Stage
Sreenivasa Nagar II Phase
Bangalore - 560 050

3. Shri S.M. Akkimardi

(Sl Nos. 1 to 3 - Transmission Assistants

C/o Shri M. Raghavendra Achar

Advocate

1074-1075, Banashankari I Stage
Sreenivasa Nagar II Phase
Bangalore - 560 050)

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 544 to 546/87(F)

Please find enclosed herewith the copy of the Order/~~Interim Order~~

passed by this Tribunal in the above said Application on 7-7-87.

Encl : as above.

Hole
SECTION OFFICER
(JUDICIAL)

Balu*

*Received copies for Opp. side the 15/7/87
Modem 15/7/87
(For M.R. Devaraj)*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 7TH DAY OF JULY, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NOS. 544 - 546/1987

1. Shri G.S. Hiremath,
S/o Shivajathaiah Hiremath,
38 years,
Transmission Assistant,
Bijapur. Applicant in
A. No. 544/87.
2. Shri K.V. Parvatnikar,
S/o Venkata Rao Parvathikar,
Transmission Assistant,
Bijapur District. Applicant in
A. No. 545/87.
3. Shri S.M. Akkimardi,
S/o. Managundappa Akkimardi,
Transmission Assistant,
Bijapur District. Applicant in
A. No. 546/87

(Shri M. Raghavendrachar, Advocate)

v.

1. The General Manager,
Telecom.
Bangalore.
2. Telecom District Engineer,
Bijapur. Respondents.

This application having come up for hearing to-day,
Vice-Chairman made the following :



Order

O R D E R

In these applications made under Section 19 of the Administrative Tribunals Act 1985 (the Act) the applicants have challenged Order No.N-6/PITA/153 dated the 22nd June 1987 (Annexure D) of the Telecom District Engineer Bijapur (TDE) in so far as that order transfers them to different places.

2. The three applicants are working as Transmission Assistants (TA) either at Bijapur or at Bagalkot. Applicants in A.No.544 and 545 are working from 1985 at Bijapur and Bagalkot respectively. Both of them were posted to their respective places at their own request. Applicant in A.No.546 has been working at Bagalkot from 1981.

3. On 15.5.1987 the General Manager (Telecom) Bangalore (GM) as the overall head of Karnataka Circle directed his subordinates as under:-

"O/O the G.M.T.BG dated at BG 15.5.1987

Tfr (Matter: This/is to intimate that

of)

Sr. the surplus TAs within the District may be

TAs transferred based on station seniority.

Sd/- Sambamurthy,
GMT-Bangalore"

But on a representation made by some aggrieved officials, on 9.6.1987 the GM had modified the same and directed as under:-

"Department of Telecom

Office of the General Manager Telecom
Karnataka Circle, Bangalore-560009

To

The T.D. Engineer,
Bellary/Bijapur

No. Staff/24-7/II dated at BG-9 the 9.6.1987

Sub: Transfer of Surplus Trans. Assts. within District:

Ref: Your letter No. E/2-4/IV/230 Dtd. 23.3.87

E-6/PITA/3/I/142 Dtd. 11.3.87

In Supersession of this office letter of even No. dt. 15.5.1987 it is intimated that the Junior most Tr. Assts. who are may rendered surplus be transferred to other stations, which are within the District.

Hence, revised orders may please be issued to the concerned officials under intimation to this office.

Sd/- M. S. Sambamurthy
For General Manager Telecom
Karnataka Circle, B'lore-9

Copy to :- The Director Telecom Hubli for information" Before or after receiving these orders, the Divisional Officer Telegraphs Bagalkot (DDT) has transferred S/ Shri. G. C. Puranik and K. H. Desai from Bagalkot to different places. But on the basis of the later policy decision of the GM, the TDE has reexamined their transfers and had cancelled them and thereafter on 22.6.1987 had transferred the applicants. Hence these applications.

4. The applicants have challenged the latter decision of the GM and the order of the DTE made on 22.6.1987 on more than one ground which will be noticed and dealt by us in due course.



5. Sri M.R.Achar, learned counsel for the applicants, contends that the ~~latter~~ ^{later} policy decision the GM was irrational, arbitrary and has violative of Article 14 of the Constitution.

In support of his contention Shri Achar strongly relies on a ruling of the Karnataka High Court rendered by one of us (Puttaswamy, J) in Channabasappa V. State of Karnataka 1980 KLJ Item 44 (Short notes of cases)

6. The later policy decision of the GM is definitely at variance with his first policy decision. Both of them have been made by the GM and his competence to make them cannot be doubted. Whether the second policy decision is irrational and arbitrary is the ~~real~~ question that calls for our examination.

7. The term 'Station Seniority' which is not defined by the GM, is somewhat a vague and nebulous concept. On this view itself, the GM was justified in making the later decision. We find it difficult to hold that the second policy decision of the GM was in any way irrational and arbitrary. The principle that junior most TAs who had become surplus for technical reasons should be moved out is not at all irrational and arbitrary. The ratio in Channabasappa's case, does not really bear on the point. We see no merit in this contention of Sri.Achar, and we reject the same.

8. Shri.Achar contends that in any event there was no earlier justification for the TDE to cancel the/transfer orders of S/Shri Puranic and Desai who had been relieved of their duties and transfer the applicants.

9. We find that the first transfer was effected by the DOT evidently on the basis of the first policy decision of the GM and the DTE who is undoubtedly superior to him had reexamined the same in the light of the second policy decision of the GM and had cancelled the same. This he was competent to do. He had done it only to give effect to the second policy decision of the GM, that was undoubtedly binding on him. For all these reasons we see no merit in this contentions of Shri Achar and we reject the same.

10. Shri Achar lastly contends that the transfer of the applicants posted to Bijapur and Bagalkot only in 1985 causes them serious inconvenience and hardship and the authorities be directed to transfer others who have been working in those place for longer periods.

11. We have earlier upheld the second policy decision of the GM. When once we hold that the policy decision of the GM as valid, we must necessarily uphold the transfer order made by the DTE. Even otherwise the DTE who is in a better position to examine the claims of his subordinates and post them to different places had posted the applicants to different places. We cannot examine the order made by the DTE as if we are a Court of Appeal and come to a different conclusion on any of the grounds made by the applicants. We see no merit in this contention also.

12. As all the contentions urged by Shri Achar fail,



these applicants are liable to be rejected. We, therefore, reject these applications at the admission stage without notice to the respondents. But this order does not prevent the DTE or any other superior authority from examining the representations of the applicants and modifying the orders made against them also.



SD-
VICE CHAIRMAN

7/7/81

SD-
MEMBER (A)

7/7/81

- True Copy -

Handwritten signature over a typed stamp:
SECTION OFFICE 157
ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE