

(6)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 824/90  
T.A. No.

198

DATE OF DECISION 15-7-92

Shri M.D. Gondane

Petitioner

Shri A.S. Bhagat

Advocate for the Petitioner(s)

Versus

Divisional Officer, Telegraphs  
Nagpur.

Respondent

Shri Ramesh Darda

Advocate for the Respondent(s)

CORAM : Hon'ble Ms. Usha Savara, Member (A)

The Hon'ble Mr.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No -

*T. Savara*  
15.7.92

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 6AMP AT NAGPUR!

ORIGINAL APPLICATION NO.824/90.

M.D. Gondane,  
Telegraphist, D.T.O.  
Bhandara.

.. Applicant.

Vs.

1. Union of India, through  
the Divisional Officer Telegraphs  
Nagpur Division, Nagpur-440001.

2. Deputy Chief General Manager,  
Nagpur.

3. Director General,  
Telecommunication,  
New Delhi.

.. Respondents.

Ceram : Hon'ble Ms. Usha Savara, Member (A).

Appearances :

Shri A.S. Bhagat,  
Advocate for Applicant.

Shri Ramesh Darda,  
Counsel for Respondents.

JUDGMENT :

Date : 15.7.1992

¶ PER : Ms. Usha Savara, Member (A) ¶

This application has been filed with the prayer that order dated 6.7.1989 transferring the applicant from Divisional Telegraph Office, Shankar Nagar, Nagpur to Divisional Telegraph Office, Bhandara be quashed and the respondents be directed to repost the applicant as Telegraphist, D.T.O., Shankar Nagar, Nagpur. There is also a prayer that the Respondents be directed to follow the instructions of Director General, Telecom, New Delhi.

O.A.824/90.

2. The applicant has been working as Telegraphist since 1968 and came to Nagpur on transfer under Rule 38 in 1978. He has been transferred by Annexure 7 i.e. order dated 6.7.1989 to Bhandara. It is the applicant's case that the transfer is malafide, with no uniform policy has been followed as neither the junior most nor the senior most staff has been transferred. The applicant, submits Mr. Bhagat, Learned Counsel for the applicant has been transferred from Nagpur in total disregard for the policy laid down by the Director General, Telecom, New Delhi. It is further submitted that in 1988 the applicant was inflicted the punishment of stoppage of increment for 2 years. This step, incidently, indicates malafide intention of the Respondents. The applicant has filed a representation on 5.9.1989 but no reply has been given by the Respondents. It is also argued that the surplus staff of Nagpur city only was to be deployed in Bhandara, whereas the applicant is working in Shankar Nagar, Post Office. Therefore, the transfer order should be quashed and the applicant be continued in Nagpur.

3. Shri Ramesh Darda appeared for the Respondents and submitted that by letter dtd. 4.7.1989, 25 posts of Telegraphists were declared as surplus in C.T.O., Nagpur. Out of this, seven posts have been diverted to D.T.O., Bhandara which is a newly opened office. The Bhandara office has been opened in rented building and there are no amenities available for ladies therefore no ladies have been transferred to Bhandara. It is further confirmed by Shri Ramesh Darda that the Respondents have followed the policy of transferring the junior most officials and except for some ladies the applicant is the junior most according to the gradation list of

O.A.824/90.

31.7.1989. The argument of the applicant that the surplus staff should only to be from Nagpur is untenable. Shankar Nagar is part of Nagpur and for purpose of declaring surplus, the staff at Shankar Nagar had also to be taken into consideration. Finally, it is submitted by Shri Darda that the transfer has been effected in the interest of administrative efficiency and there has been no violation of any policy guidelines. In the circumstances the application is devoid of merit and deserves to be dismissed.

4. We have heard the Counsel for the applicant, the ground of malafide is totally insubstantiated. Merely because the applicant has been awarded the punishment for not complying with order in the year 1988, it cannot be said that the present transfers are made as a result of that. The applicant's transfer is one of many from the C.T.O., Nagpur. Since ~~the~~ <sup>a</sup> new office has been opened at Bhandara and there is a ban on creation of new posts and the services are to be manned with the available staff, some of the surplus staff is to be adjusted by expanding the services in Rural Areas. The transfer has been made for exigencies of services and ~~does~~ not call for any interference. Shri Bhagat has relied upon the judgment in the case of G. Suresh Kumar, R. Sukumaran Nair Vs. Union of India and Others reported in AIR 1988 in which it was held that the transfer order was not on bonafide administrative ground and therefore it was cancelled. However, the facts cited above clearly indicate that the transfer has been made solely in the public interest. In this connection the judgment of Supreme Court in the case of Gujarat Electricity Board and Another Vs. Atmaram Sugnmal Peshani 1989(3) S.C. 20 clearly lays down that transfer is <sup>an</sup> incident of service; it is for the authorities

concerned to decide where the official is to be posted. A variety of factors like suitability, aptitude, conduct, reputation and other grounds may weigh with the authorities, clubbed together, as exigency of service. The Court may only interfere if there is a violation of legal provisions or there is an allegation of malafide. As this transfer does not fall in any of the categories, we see no reason to interfere with the orders.

5. In the circumstances the application is dismissed as being void of merit with no order as to costs.

U. Savara. 15.7.92  
( MS. USHA SAVARA )  
MEMBER (A).

ham/-.