

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 20 AUG 1993

APPLICATION NO(s). 518 of 1993.

Applicant(s) M.Rajanna v/s. Respondent(s) Secretary,Dept.t of Telecommunications,NDelhi & Ors.

To

1. Sri.M.Rajanna,Junior Telecom Officer,Microwave Maintenance,Kolar.
2. Sri.N.S.Srinivasan,Advocate,No.12,2nd Floor,S.S.B.Mutt Bldgs, Tank Bund Road,Bangalore-9.
3. The Secretary,Dept.t of Telecommunications,20,Ashok Road, New Delhi.
4. Chief General Manager,Telecommunications(Maintenance),Southern Telecom Register,39,Rajaji Salai, Madras-600001.
5. General Manager(Maintenance),S.T.S.R.,25, II Floor,GraceMansion, Infantry Road,Bangalore.
6. Sri.S.A.N.Murthy,Divisional Engineer,Microwave Maintenance, 4th Floor,Telecom Bldg,Basaveshwara Circle,Bangalore-1.
7. Sri.S.K.Jayashanthakumar,Asstt.Engineer,U.H.F.,Telephone Exchange, Bangarpet.
8. Sri.G.K.Kulkarni,Junior Telecom Officer,Microwave Maintenance, Bangarpet Road,Kolar.
9. Sri.M.Vasudeva Rao,Central Govt.Stng.Counsel,Bangalore-1.
10. Sri.P.A.Kulkarni,Advocate,No.48,57th 'A'cross, IV Block, Rajajinagar,Bangalore-10.
11. Dr.M.S.Nagaraja,Advocate,No.11,Second Floor, 1st Cross, Sujatha Complex,Gandhinagar,Bangalore-9.

SUBJECT:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore Bench
Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 29-07-93.

Severed

of

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

20/8/93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 29TH OF JULY, 1993

Present: Hon'ble Justice Mr.P.K. Shyamsundar Vice-Chairman
Hon'ble Mr.V. Ramakrishnan Member (A)

APPLICATION NO.518/93

Shri M. Rajanna,
Working as Junior Telecom Officer,
Microwave Maintenance,
Kolar

Applicant

(Shri N.S. Srinivasan - Advocate)

v.

1. Ministry of Telecommunications
by its Secretary,
Department of Telecommunications,
No.20, Ashok Road,
Sanchar Bhavan,
New Delhi
2. Chief General Manager,
Telecommunication(Maintenance),
Southern Telecom Register,
No.39, Rajaji Salai,
Madras - 600 001
3. General Manager(Maintenance),
S.T.S.R.,
No.25, II Floor,
Grace Mansion,
Infantry Road,
Bangalore
4. Shri S.A.N. Murthy,
Working as Divisional Engineer,
Microwave, Maintenance,
4th Floor, Telecom Building,
Basaveshwara Circle,
Bangalore - 1
5. Shri S.K. Jayashanthakumar,
Asst.Engineer, U.H.F.
Telephone Exchange,
Bangarpet



6. Shri G.K. Kulkarni,
Junior Telecom Officer,
Microwave Maintenance,
Bangarpet Road,
Kolar

Respondents

(Shri M.V. Rao for R-1 to 3)
Shri P.A. Kulkarni for R-5
Dr. M.S. Nagaraja for R-6

This application has come up today before this Tribunal for orders. Hon'ble Justice Mr.P.K. Shyamsundar, Vice Chairman made the following:

O R D E R

We were put to the necessity of hearing this case on more than one day, though intermittently. It held the promise of a battle royal and had all the image of a classic battle staged by a poor David against a mighty Goliath of Biblical fame. ~~Further,~~ ^{Very} It did not, however, end with Goliath slain because we have today been able to reach a meeting point that will no longer require us to pronounce on an issue though of an ordinary nature but rendered somewhat sensitive by the allegations and counter-allegations made by either sides in this case touching an order of a normal and routine nature involving the transfer of the applicant from the small town of Kolar to the metropolis of Bangalore more than 65 kms in distance.

2. The case itself has a very interesting background although it is not necessary to consider it in depth for an end result right now, We think it, however, appropriate to make a brief reference to the developments that had led to the passing of the impugned order.

3. The applicant is a Junior Telecom Officer. His case is, exasperated by demands made by an Assistant Engineer Shri Jayashanthakumar, the 5th respondent in this application for illegal gratification, he arranged for having him trapped by the CBI in the act of receiving illegal gratification from him. Whether that was true or not we do not have to go into in this case since a investigation is said to be still afoot and we also do not want to demolish whatever defence may be available to the 5th respondent in that behalf. But, we are told that soon after the aforesaid unusual development had occurred, Shri Jayashanthakumar was transferred by the Department to another place and simultaneously the applicant was also transferred to Bangalore both done under the recommendations of the Vigilance Officer stationed at Madras who had come down to make local enquiries into the bizarre event involving R-5 Jayashanthakumar and the applicant.

4. The applicant feels solely aggrieved at being shifted from Kolar to Bangalore and says he sees no reason why he should have been shifted from Kolar merely because he was responsible for setting the law in motion against another officer. He, therefore, asked the authorities not to enforce the transfer order but all that was without any avail, with the result he has come to us asking us to quash the impugned order of transfer. At the preliminary stage, after hearing his counsel Shri Sanjay Gowda, we made an order directing maintenance of status quo on the basis of which applicant continues in his old post at Kolar



even today.

5. Shri M.V. Rao, learned Standing Counsel who appeared on the scene afterwards asked us to discharge the status quo order and also asked us to dismiss this application pointing out that in these matters of transfers we in the Tribunal should be the last persons to say anything because whatever has to be said, has to be said by the Department and that too finally.

6. While we for one do not agree with counsel's submission in spelling out the position touching our competence and jurisdiction in this matter viz. the department claiming immunity of judicial review, we find this case did offer to us a very purposeful vista to examine the limitation or otherwise of our power in the matter of judicial review of a simple order of transfer effected by the Department presumably in public interest.

7. We found to our dismay that this is really a case of there being wheels within wheels and not just a simple order of transfer shifting a recalcitrant officer who was found unsuitable for discharging his duties in the post in which he was working but something much more. In the process, we even tried to fine or decipher seeking technical in-puts to ascertain whether it is possible to put through an STD call from a telephone instrument which is not provided with STD facility which is precisely the complaint made against the applicant in order to ascertain whether that complaint is justified. After a lot of persuasion much of which



was directed towards the Department, who are respondents herein whose reaction we found to be not as hartening as we expected but today it was agreed upon that in exercise of our ~~authority~~ ^{jurisdiction} we may direct the Department to keep in abeyance the impugned order of transfer till the end of academic year i.e. till the end of April, 1994, and that the Department would thereafter be free to give effect to the said order. It seems to us that in the facts and circumstances of the case and without going into the ramifications leading to the passing of an impugned order, that would have involved in submitting the impugned order to a somewhat keen and closer examination since the order we find and feel is not above reproach and therefore is not one that can said to be totally bonafide, we, however, dispose off this application with a direction that the Department should keep the impugned order of transfer under abeyance till the end of April, 1994, and to give effect to it only thereafter as agreed to aforesaid. We had called for and obtained the records of the case. We direct the return of the same subject to production if required in future. No costs.



TRUE COPY

M. S. Deo
SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
MEMBER (A)

20/8/93

Sd/-
VICE CHAIRMAN