

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 592/94

Transfer Application Nox

DATE OF DECISION: 26.7.94

Shri Ajitkumar Ramsahay Parihar Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri S.S. Karkera for Advocate for the Respondent(s)
Shri P.M.Pradhan

CORAM :

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

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S. Hegde)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 592/94

Shri Ajitkumar Ramsahay Parihar

... Applicant.

V/s.

Union of India through
Chief General Manager,
Telecom, Maharashtra Circle
GPO, 2nd floor,
Bombay.

The General Manager,
Kalyan Telecom Dist. Kalyan,
Kala Talav.

Shri J. Sugathan
Phone Inspector, Wada,
Working under Asstt. Engineer
Cable, Bhivandi.

The Div. Engineer Telephones,
M.I.D.C., Dombivali,
Dist. Thane.

... Respondents.

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

Appearance:

Shri D.V.Gangal, counsel
for the applicant.

Shri S.S.Karkera for Shri
P.M.Pradhan, counsel for
the respondents.

ORAL JUDGEMENT

Dated:26.7.94

¶ Per Shri B.S. Hegde, Member (J) ¶

The applicant has filed this application
praying for quashing the impugned order at Annexure
A-1, A-2 and A-3. To hold and declare that Annexure
A-1 , A-2 and A-3 are illegal. To hold and declare
that the applicant is entitled to be granted posting
at Dombivali. His case should be dealt with the
direction to the respondents to consider his posting
at any of the choice station viz. Ulhasnagar, Kalyan,
Ambarnath, Badlapur and Bhivandi City. In this
connection learned counsel for the applicant has

drawn my attention to the guidelines laid down by the respondents which reads as follows:

" The transfers should be spaced out in such a manner as to cause the least dislocation to the studies of children of the employees concerned. The transfers should take effect at the end of the academic session, but all cases should be reviewed and a decision taken to transfer them by December to May as the case may be depending on when the academic term ends. Those officers proposed to be transferred to be informed in advance so that they may be ready for the transfer and to indicate 3 or 4 choices of stations where they would like to be transferred. Every effort may be made to accomodate them, as far as possible, in the station of their choice (69/33/71-SPB I dated 13.7.71)."

He further submits, that according to which it is open to the respondents to give advance intimation to the employees for those who are in zone of consideration of transfer to give their choice station. In support of his contention he draws my attention to annexure A-5 that a similar offer was given to Phone Inspectors/ the other two colleagues of the applicant by letter dated 25.4.94. He further submits, that the respondents by their reply in para 10 re-iterated that the service conditions of the applicant can be transferred anywhere under the jurisdiction of General Manager Telecom, Kalyan and the applicant was transferred from Dombivali to Wada as a routine transfer in the interest of service. The learned counsel for the respondents, Shri Karkera further submits, that the respondents have taken into consideration the transfer policy and academic session at the time of issuing the transfer order of the applicant. He further submits, that in the

exigency of service, the applicant can be transferred anywhere under the General Manager Telecom, Kalyan and thus the applicant cannot take it as a matter of right that he should be posted and transferred as per the choice of station indicated by him. Learned counsel for the applicant Shri Gangal further submits, that this statement is contrary to the guide lines issued by the respondents. In the instant case they have not given any advance intimation of his proposed transfer. Hence the transfer order issued by them is found to be not in accordance with the guide line [REDACTED] requires to be quashed.

Learned counsel for the respondents submits as per the guidelines, it is open to the applicant to choose the place of transfer and it is open to the respondents to consider the case and pass suitable order keeping in view of the exigencies of service. In the instant case, admittedly, the respondents have not given any advance notice to the applicant as was given to the colleagues of the applicant. On receipt of the choice of station submitted by the applicant it is open to the respondents to consider his request and pass appropriate transfer order as they deem fit.

In the circumstances, the learned counsel for the applicant submitted that the transfer order issued by the respondents by letter dated 18.4.93 no more subsists and the same may be quashed. As already mentioned, the department has not taken into account the guidelines laid down while transferring the applicant from Dombivali to Wada. Though the order was issued on 18.5.93 the said letter was not received by the applicant till 21.5.93 as he was on leave on 19.5.93 and 20.5.93.

The main contention is that the applicant has not been relieved and the person working in Wada was not relieved from the post so far. Regarding the absence from duty from 21.5.93 till he joins the duty i.e. 27.7.94 the respondents may give the applicant an opportunity to explain his contention as to why he did not join at Wada and pass a speaking order regarding the pay and allowances of the applicant from 21.5.93 to 27.7.94.

In the light of the abo. hereby pass the following order:

Since the applicant has already given the place of choice, the respondents may consider the same and pass a speaking order within a period of one month from the date of receipt of this order. Accordingly, the Annexure A- 2 order is hereby quashed and set aside. The respondents are directed to pass a fresh order keeping in view the guidelines and consider the place of choice given by the applicant within a period of one month from the date of receipt of this order.

The applicant shall resume duties from 27.7.94 at M.I.D.C. Dombivali. In the light of the above the OA is disposed of but no cost.

DASTI.


(B.S. Hegde)
Member (J)