OA 968/97 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

OA 969/97

1. ORIGINAL APPLICATION NO. 968/1997.
2. ORIGINAL APPLICATION NO. 969/1997.

Thursday, this the 12th day of February, 1998.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).

1. G.N.Panjwani,
   201, Devrishi Apartment,
   'A' Block, Ulhasnagar-421 001, ... Applicant in O.A.968/97.

2. R.F.Shahani,
   12, Rishikesh Apt.,
   3rd Floor, Near Sadhu Vaswani
   Garden, Gol Maidan,
   Ulhasnagar - 421 001. ... Applicant. in O.A.969/97.
   (By Advocate Shri K.R.Yelwe)

V/s.

1. Union of India, through
   Chief General Manager,
   Telecom, Maharashtra Telecom
   Circle, Department of
   Telecommunications
   Ministry of Communications,
   Fountain Building,
   Mumbai - 400 001.
2. The General Manager,
   Telecom (Dist. Kalyan),
   Department of Telecommunications,
   Telephone Bhavan,
   Kalyan - 421 301.
3. The Jr. Telecom Officer,
   Telegraph Office,
   Ulhasnagar - 2.
4. The Asstt. General Manager (A),
   Office of the General Manager,
   Telecom, Dist. Kalyan,
   Telephone Bhavan,
   Kalyan - 421 301. ... Respondents in O.A. 968 & 969/97.
   (By Advocate Shri S.S.Karkera)

ORDER

(Per Shri M.R.Kolhatkar, Member(A))

As these two O.As. raise common issues they are being dealt with by a common order. The facts in O.A. 968/97 are taken as illustrative. The applicant challenges the order dt. 20.10.1997 in terms of which he has been transferred from the post of Senior Section Supervisor Ulhasnagar to that of S.S.O. Bhiwandi. The contention of the applicant is that the order of transfer itself talks of transfer being necessitated in the context

of staff having completed 4 years of tenure and also on account of setting up of the formation of offices of Area Manager at Kalyan, Ulhasnagar, Bhiwandi and Vasai. Admittedly the applicant was working under the Area Manager, Ulhasnagar and has been transferred under the Area Manager, Bhiwandi. The contention of the applicant is that he came from Akola in the month of July, 1996. His initial posting was at Dombivli and thereafter he was posted at Ulhasnagar, where he had hardly worked for about a year. It is contended that he has not completed 4 years of tenure and still he has been transferred. The second contention is that he belongs to the Traffic Wing, but he has been transferred to the Engineering Wing. Thirdly, it is contended that the applicant is on the verge of retirement (likely date of retirement is 30.11.2000), and there are instructions to the effect that the employee should not be disturbed in the last three years of the servce life. It is stated that he is suffering from several ailments and it is strenuous for him to travel from Ulhasnagar to Bhiwandi. The applicant, therefore, prays for quashing the order of transfer to the extent it relates to him.

2. The learned counsel for the respondents has opposed admission. According to him the transfer was necessitated because of opening of new Area Office in Bhiwandi. The distance between Bhiwandi and Ulhasnagar is only 16 kms. Further it is argued that the willingness from all staff members was called vide letter dt. 6.9.1997(at page 17), the applicant

...3.

had not given his willingness, but as he was working in the Supervisory Cadre and as he was experienced he was transferred. It is lastly submitted that the applicant has not exhausted the departmental remedies. This would be relevant in the context of submissions of the applicant regarding his having transferred recently from Akola to Kalyan area and regarding his being posted in one place during last three years of his serving life.

3. I notice that respondents have not filed any Sur Rejoinder with reference to paras 4 and 5 of the Rejoinder which raise purely departmental issues. The counsel for the applicant has also referred to the Circular dt. 7.7.1994 on the subject of merger of Telegraph Traffic Arm with Engineering Arm. Prima facie the applicant does have a case which is required to be considered by Departmental Authorities. In the instant case the applicant has chosen not to file a representation and therefore the department has not been able to deal with his representation, in the light of the departmental policies. I therefore, consider that this is a fit case in which the O.A. should be disposed of by giving a suitable direction.

4. The applicant may file a detailed representation to the respondents within two weeks from the date of communication of the order. The respondents to deal with the representation within 8 weeks thereafter in a speaking manner. Till this process is completed, the respondents not to disturb the applicant from the earlier place of posting viz. Ulhasnagar. After respondents have dealt

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with the representation as indicated above, the respondents are at liberty to transfer the applicant after two weeks from the date of communication of the respondents' reply to the applicant. Needless to say the applicant would be at liberty to challenge the reply of the respondents in case he/is so advised. No orders as to costs.

(M.R.KOLHATKAR)
MEMBER(A).

B.

CAT/Continued Sheet

Page No

Date	Office Report	Orders

C.P. no 18/98
filed by applicant,
heard on 5-6-98

13/4

Dated: 5.6.98 (45)

Applicant by Mr. K.R. Yelwe.
Respondents by Mr. S.S. Karkera.

On the submission of applicant's Counsel, CP No. 18/98 is permitted to be withdrawn. No Costs.

(D.S. Baweja)
M(A)

(R.G. Vaidyanatha)
VC

mj.

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Order/Judgement despatched to Applicant/Respondent (s) on 19/6/98

8
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