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In the Central Administrative Tribunal, Jodhpur Bench,
at Jaipur.

Date of Order :- July 19, 199

O.A. No. 836/89.

Mohd. Rashid Khan

.....Applicant.

Mr. K.S. Sharma

Counsel for the applicant.

Vs.

Union of India & others

.....Respondents.

Mr. A.K. Bhandari

Counsel for the respondents

CORAM:

The Hon'ble Mr. Kaushal Kumar, Vice-chairman

The Hon'ble Mr. T.S. Oberoi, Judl. Member.

KAUSHAL KUMAR (Vice-chairman):

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant, who was posted as Technical Supervisor (Operative) in the office of the Sub-Divisional Officer Phones (Central), Jaipur, has challenged the order dated 17.2.88 filed as Annex. A/I to the application striking him off from the strength of Jaipur district and asking him to report for further duties at Partapur Telephone Exchange, under S.D.O. Telegraphs, Banswara/TDE Banswara at Udaipur under para 37 of P & T Manual Volume IV. It has also been prayed that the Respondents be directed to withdraw the charge sheet issued to the applicant on 20.9.88.

2. The transfer order has been challenged on several grounds including those mentioned in paragraph 6(vii), (viii), (ix), (x), (xi) etc. of the



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application. It has been stated in the application that the applicant had preferred complaints to the C.B.I. against corrupt practices of various officers in the Department and that Respondent No. 2 became biased and prejudiced against the applicant. Several other grounds have also been mentioned in para No. 7 of the application.

3. The application is resisted by the respondents on the ground that the applicant had been involved in a number of specific acts of misconduct and activities of irresponsible nature, on which the Administration had to take appropriate disciplinary/administrative actions and that the applicant had also been punished several times in specific cases. The transfer is sought to be justified on administrative grounds.

4. We have heard both the counsel at length.

5. It would appear that after the issue of the impugned transfer order dated 17.2.88, the applicant did not comply with the said order and never reported at Partapur. The learned counsel for the applicant has produced copies of a few communications, which purport to show that the transfer order was kept in abeyance on one occasion and subsequently, the applicant's name was struck off from the roll of Jaipur district, where he was earlier posted. The authenticity of some of these documents is disputed by the learned counsel Mr. Bhandari appearing for the Respondents. We do not consider it necessary to go into the authenticity or otherwise of these documents produced on behalf of the applicant.

6. The learned counsel for the applicant



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has also filed a copy of the letter No. 7-19/88-NCG dated 19.6.90 issued by the Ministry of Communications, Department of Telecommunications, Govt. of India.

The contents of the said letter are extracted below :-

"Hon'ble Minister of State for Communications has desired that Shri Rashid Khan, Technical Supervisor, Jaipur be transferred to New Delhi for a period of six months.

You are requested to implement the orders of Hon'ble Minister of State for Communications and transfer Shri Rashid Khan, Technical Supervisor to New Delhi for a period of six months on deputation basis under Chief General Manager Maintenance, Northern Telecom. Region.

The official will not be entitled to any deputation allowance and TA/DA.

A compliance report may please be sent to this office within a week's time for the information of M.O.S.(C)."

In terms of the said order, the services of the applicant have been transferred to New Delhi for a period of six months on deputation basis. The authenticity of the said communication is not questioned by the learned counsel for the Respondents. In view of this latest communication, we are of the view that the impugned transfer order dated 17.2.88 is deemed to have been superseded from 19.6.90, the date when the letter referred to above, was issued by the Department of Telecommunications. As such, the transfer order no longer survives and the application has become infructuous in so far as the challenge to the transfer is concerned. The learned counsel for the Respondents Mr. Bhandari states that before the applicant is relieved in compliance of the order dated 19.6.90 issued by the Department of Telecommunications, it is necessary that the applicant must join duty ~~ix~~ at Partapur. This contention cannot be sustained. Since the transfer



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order which was under challenge has been superseded w.e.f. 19.6.90 after issuance of the letter by the Department of Telecommunications, it is not necessary for the applicant to join duty at Partapur. Technically he can be required to resume duty only at his last place of posting from where his name was struck off before he is relieved to proceed on deputation in terms of the order issued by the Department of Telecommunications.

7. In so far as the relief for quashing the charge sheet is concerned, since the disciplinary proceedings are still pending, the application being premature in terms of the provisions contained in section 20 of the Administrative Tribunals Act, 1985, is not maintainable.

8. We, accordingly, dismiss the application as having become infructuous or being not maintainable and direct the Respondents to allow the applicant to resume duty immediately at Jaipur and further to relieve him forthwith thereafter in compliance of the order dated 19.6.90 issued by the Department of Telecommunications. Parties shall bear their own costs.



T.S. Oberoi 19.7.90
(T.S. Oberoi)
Judl. Member

Kaushal Kumar 19.7.90
(Kaushal Kumar)
Vice-chairman.