

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 398/89.

Date of Decision : 23rd Jan 1992.

~~P.A.No.~~

Md. A. Gaffoor

Petitioner.

Shri Nouri for Shri P. Sri Raghuram

Advocate for the  
petitioner (s)

Versus

The District Engineer, Telephones,  
Visakhapatnam & another

Respondent.

~~Shri N. Bhaskar Rao, Addl. CGSC~~

Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. R. Balasubramanian : Member(A)

THE HON'BLE MR. T. Chandrasekhara Reddy : Member(J)

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 Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

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HRBS  
M(A).

HTCR  
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.398/89.

Date of Judgment 23rd Jan 1992

Md. A.Gaffoor

.. Applicant

Vs.

1. The District Engineer,  
Telephones,  
Visakhapatnam.

2. The Assistant Engineer,  
Telephones-III,  
Visakhapatnam.

.. Respondents

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Counsel for the Applicant : ~~Shri Nouri for~~  
Shri P.Sri Raghuram *not present*

Counsel for the Respondents : Shri N.Bhaskar Rao,  
Addl. CGSC

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CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhar Reddy : Member(J)

! Judgment as per Hon'ble Shri R.Balasubramanian, Member(A) !

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This application has been filed by Shri Md. A.Gaffoor against the District Engineer, Telephones, Visakhapatnam & another under section 19 of the Administrative Tribunals Act, 1985 with a prayer that Order No.E5/APPTS & Postings/87-88/97 dated 9.2.89 allotting him to SDOT Chodavaram be quashed.

2. The applicant was selected as a Lineman and after completing the required training was allotted as a Lineman to SDOT Chodavaram vide order of the 1st respondent dated 2.12.88. The applicant had some personal difficulties and on a representation by him the orders were modified <sup>by</sup> the 1st respondent posting him to the 2nd respondent. Accordingly, the applicant joined the unit of the 2nd respondent on 23.12.88. It is alleged by the applicant that all of a sudden due to the intervention of the union members the impugned order was issued

allotting him back to the original unit of recruitment viz: Chodavaram Sub Division. He approached the Court of District Munsiff, Visakhapatnam and on being told that he had to approach this Tribunal, he has accordingly approached this Tribunal with this O.A.

3. The respondents have filed a counter and oppose the application. It is pointed out that allotment to various units is made according to marks obtained by them in the test. The applicant who was 21st in rank could only be allotted to Chodavaram Sub Division initially. Purely on humanitarian grounds they however modified it and posted him to Visakhapatnam Sub Division. Later, several posts were required to be filled up at Chodavaram and there were many ~~other~~ eligible claimants for Visakhapatnam. Under these circumstances, in the interest of service and to maintain the Telecom. service at Chodavaram, the respondents decided to restore the allotment of the applicant to the original unit of recruitment viz: Chodavaram and hence the impugned order.

4. We have examined the case. There is an interim order in this case which was passed at the time of admitting the O.A. on 17.5.89. The impugned order had been suspended. On several occasions ~~when~~ the case was called, the counsel for the applicant <sup>did</sup> ~~had~~ not turned up. The case was actually posted for dismissal yesterday and on a representation made on behalf of the counsel for the applicant was adjourned "for dismissal today". Today also, the applicant's counsel did not turn up and hence we decided to go into the merits of the case and decide the same.

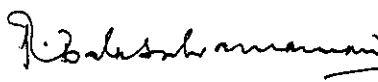
5. It is clearly seen that by virtue of the marks he obtained the applicant is entitled to be posted only to Chodavaram Sub Division and accordingly this was done.

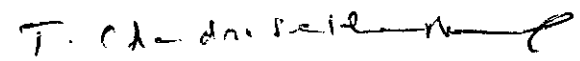
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When there was a possibility to accommodate him at Visakapatnam, the respondents had, on humanitarian grounds, allotted him to Visakapatnam Sub Division. However, when the interest of service warranted, and this is the foremost consideration, the respondents realised that the applicant who was originally allotted to Chodavaram Sub Division by virtue of the rank he obtained in the test should only be posted to Chodavaram Sub Division and hence reallocated him to Chodavaram Sub Division. We find that this is in the interest of service and there is no malafide intention as alleged by the applicant.

6. There are several decisions of the Hon'ble Supreme Court, AIR 1989 SC 1433 and AIR 1991 SC 532 to quote two of them. It had been held that transfer is an incident of service and the Administration has the right to transfer persons from one unit to another in the interest of service. When such is the position, the case before us is only a restoration back to the original unit of allotment and we find no reason to interfere in this case. Accordingly, we dismiss the application with no order as to costs and the interim order passed already stands vacated.

  
( R.Balasubramanian )  
Member (A)

  
( T.Chandrasekhar Reddy )  
Member (J)

Dated: 23rd January, 1992.  
Dictated in Open court.

  
Deputy Registrar

- To
1. The District Engineer, -Telephones, Visakhapatnam.
  2. The Assistant Engineer, Telephones-III, Visakhapatnam.
  3. One copy to Mr.P.Sri Raghuram, Advocate  
Plot No.1361m Road No 45, Jubilee Hills, Hyderabad.
  4. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.Bench.
  5. One spare copy.
  6. One copy to D.R (J)

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