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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.364/92

Date of Order: 9.6.1992

BETWEEN:

G.Satyanarayana

.. Applicant.

A N D

1. Telecommunications
District Manager,
Eluru - 534050.
2. Sub-Divisional Officer,
Telecommunications,
Tanuku - 534 211.
3. D.Koteswara Rao, T.O.A.,
D.E.T., Bhimavaram,
W.G.Dist.
5. C.H.S.V.Shyam, T.O.A.,
S.D.O.T., Tanuku.

.. Respondents.

Counsel for the Applicant

.. Mr.K.L.Narasimha

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI A.B.GORTHY, MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

(Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Judl.)).

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The grievance of the applicant is against his transfer back to Bhimavaram from Tanuku. The applicant joined the service as Telecom. Office Assistant (TOA) at Bhimavaram in 1977. He was selected and posted as Cashier to Tanuku vide order dated 22.10.1986. The post of Cashier is for a period of 4 years only. Accordingly on completion of 4 years as Cashier at Tanuku he was absorbed as a T.O.A. w.e.f. 11.1.1991. However, to his surprise an order was issued transferring him back to Bhimavaram on 14.8.1991. He represented against the same, stating inter alia that he had been making repeated representations for posting to Tadepalligudem and that he had admitted his children to the schools and his transfer would upset their studies. The respondents having considered his representation deferred his transfer and finally vide the impugned order dated 17.3.1992 directed him to report to Bhimavaram. The applicant's contention is that the said transfer order was issued with a view to accommodate respondent No.3 at Tanuku and that it was neither in administrative interest nor in accordance with the existing instructions.

2. The respondents have not come forward with a counter affidavit inspite of the adequate opportunity given. We have however heard Sri N.R.Devraj, learned Addl. Standing counsel for the respondents at length. The contention of the respondents is that the applicant on coming to Tanuku as a Cashier could have held that post for only 4 years as per extant instructions. On completion of 4 years he was liable to be transferred back to Bhimavaram. The applicant was not absorbed as such as TOA at Tanuku but his stay there was extended by some time. His transfer back to Bhimavaram was because of the fact that the

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completed his tenure of 4 years at Tanuku and it had nothing to do with the posting of respondent No.3 to Tanuku.

3. Learned Counsel for the applicant attacked the transfer order on 3 important grounds. His first contention was that when the applicant was posted to Tanuku as a Cashier he was not informed that he would be liable to be sent back to Bhimavaram on completion of 4 years stay at Tanuku. The second point raised was that there were some other T.O.As. at Tanuku with longer periods of stay and they should have been transferred prior to the transfer of the applicant. Last but not the least the learned counsel for the applicant has contended that the impugned transfer order was issued for no other purpose than to accommodate Sri D.Koteswara Rao (Respondent No.3). It is thus alleged that the transfer order was issued for extraneous considerations and not in the interest of the department.

4. By means of a catena of judicial decisions, it is now clear that a transfer order could be assailed essentially either on the ground that it was issued malafide or on the ground that it violated any statutory provisions governing such transfer. In the instant case our attention has not been drawn to any such statutory provisions which could be said to have been violated. However, it is apparent that the main contention raised on behalf of the applicant is that the transfer order was issued not in the interest of the department but for other irrelevant considerations.

5. We have heard the learned counsel for both the parties. We do not find any justification to conclude that the respondents acted malafide in transferring the applicant back to Bhimavaram. We have also noticed that the respondents have shown sufficient indulgence in deferring the

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~~transfer~~ order on the request of the applicant and re-issu^{-ing} it in March, 1992, so that the academic session of the children of the applicant was not terminated prematurely.

6. We may refer to a Judgement of the Hon'ble Supreme Court in the case of Mrs. Shilpi Bose versus State of Bihar AIR 1991 Supreme Court, page 532. Relevant extracts of the Judgement are reproduced below:

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

7. Admittedly the applicant had made repeated representations requesting for transfer to Tadepalligudem. The said requests are obviously ^{still} under consideration. However, these representations would indicate that the applicant is more keen to be position^{-ed} at Tadepalligudem than at Tanuku. Keeping in view the said request of the applicant and the fact that he completed 4 years as Cashier at Tanuku, the respondents action to transfer ^{him} them to Bhimavaram cannot be said to have been done with any mala fide intention.

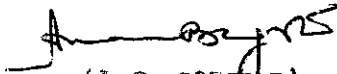
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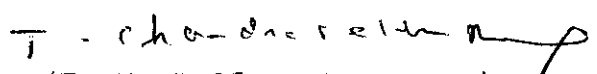
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8. In the light of the facts ^{and} ~~in~~ law as ~~in~~ affore-stated, we do not find any merit in the application. The same is hereby dismissed. There shall be no order as to costs.


(A.B. GORTI)
Member (Admn.)


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 9th June, 1992

(Dictated in the Open Court)


Deputy Registrar (J)

To

1. The District Manager, Telecommunications,
Eluru-534 050.
2. The Sub-Divisional Officer, Telecommunications,
Tanuku-534 211.
3. One copy to Mr. K.L.Narasimha, Advocate,
2-2-186/17/C/1, Bagh Amberpet, Hyderabad.
4. One copy to Mr.N.R.Devraj, Addl.CGSC.CAT.Hyd.
5. One spare copy.

pvm



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TYPED BY

COMPARED BY

CHECKED BY *as*

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. *A.B. Goythi* ~~R. SUDRAMANIAN~~:M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (JUDL)

AND

THE HON'BLE MR. C.U. ROY : MEMBER (JUDL)

Dated: *9-6* -1992.

ORDER / JUDGMENT

R.A./C.A./M.A.No.

in

O.A.No.

364/92

T.A.No.

(W.P.No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.

