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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.765 of 1993

DATE OF JUDGMENT: 20th August, 1993

BETWEEN:

1. Mr. D.Mohan
2. Mr. BVR Ramana
3. Mr. D.Someshwar Rao
4. Mr. R.M.Datar
5. Mr. V.Raghava Rao
6. Mr. M.Satyanarayana
7. Mr. M.Varaprasada Rao
8. Mr. M.Suryachander Rao
9. Mr. K.Venkateswarlu
10. Mr. NVS Murthy
11. Mr. P.Ravinder Reddy
12. Mr. DMK Prasad
13. Mr. KV Basavaiah*
14. Mr. K.Rejender Prasad
15. Mr. K.Satyanarayana
16. Mr. M.Ravindranath ..

Applicants

*OA is dismissed in regard to the applicant
No.13 (Mr. KV Basavaiah is concerned vide
orders of the Tribunal dt. 13.7.1993.

AND

1. The Union of India
represented by the Director General,
Telecommunications,
New Delhi-110001.
2. The Chief General Manager,
Telecommunications,
Andhra Circle,
Hyderabad.
3. The General Manager,
Telecom District,
Hyderabad-500033. ..

Respondents

HEARD:

COUNSEL FOR THE APPLICANTS: Mr. J.V.Laxman Rao, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Raghava Reddy, Addl.CGSC

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CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice-Chairman
Hon'ble Shri P.T.Thiruvengadam, Member(Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SRI P.T. THIRUVENGADAM, MEMBER (ADMN.)

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All the applicants were working as Junior Engineers (J.Es.) in the Telephone District, Hyderabad as on 1.11.1986 under the administrative control of the General Manager, Telephone District, Hyderabad. The applicants had either been recruited in the Telephone District, Hyderabad or had been transferred under Rule 38 from the other Districts and had come over to Hyderabad District on bottom seniority. The Telephone District, Hyderabad was a separate independent unit by itself where recruitment, transfers and postings of all including the J.Es. were confined to twin cities of Hyderabad and Secunderabad and were under the jurisdiction and the administrative control of the General Manager, Telephone District, Hyderabad. The staff including the JEs working in the Telephone District, Hyderabad were not liable to transfer outside the District except under special circumstances when they were liable to serve in any part of India.

2. Prior to 1.11.1986, the remaining areas (ie., other than Hyderabad Telephone District) in Andhra Pradesh were under the control of the General Manager, Andhra Pradesh Circle, Telecom. Pursuant to National Switching Plan evolved by the Ministry of Communications, a proposal for reorganising Telecom Circles on the basis of Secondary Switching Areas (S.S.A.) as basic units, was evolved. Accordingly, instru-

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ctions were issued by the Ministry of Communications vide letter ~~dated~~ No.1.16/82-TE.I, dated 19.9.1986. According to these instructions, Hyderabad Telephone District took over the respective Secondary Area in which it was located and came under the control of the General Manager of the Andhra Pradesh Telecom Circle.

3. The applicants were issued with the transfer orders dated 26.5.1993 transferring them from Hyderabad Telecom District to the Telengana District of A.P. Telecom Circle. These transfers are challenged in this OA. Pending consideration of this OA, transfer order with regard to the 13th applicant was cancelled on his representation and he is retained in twin cities.

4. The re-organisation as mentioned above had come into effect from 1.11.1986 and at that stage, the A.P. Telecom Circle was headed by ~~the~~ General Manager. Subsequently, the post was upgraded in the year 1988 to ~~the~~ Chief General Manager. The instructions dated 19.9.1986 issued at the time of reorganisation dealt with the recruitment-transfers and postings in Para 3 of the Annexure II. ~~and xKkx~~ This para reads as under:-

"Recruitment-Transfers and Postings:

Recruitment for all cadres for the entire Secondary Area will be done by the Telecom District G.M./District Manager/ District Engineer, according to schedule of powers and, all the new recruits including departmental candidates will have transfer liability over the whole Secondary area. The existing staff of the erstwhile Telephone District

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and the Telegraph Engineering Divisions will also have transfer liability over the entire Secondary Switching Area, but to avoid hardship to the individuals, such liability for those recruited already to the specific units may be confined only to those units as far as possible taking into consideration individual options. (emphasis supplied). Officials coming under Rule 38 transfer, and those recruited afresh both departmental and outsiders, will, however, have full transfer liability over the whole Area."

It is manifest from the above that the existing staff of erstwhile Telephone District were having transfer liability through out the entire Secondary Switching Area and to avoid hardship to the individuals, the transfer of the existing staff was to be restricted to their units in which they were recruited as far as possible taking into consideration the individual options. Admittedly, the applicants belong to Hyderabad Telephone District by 1.11.1986 and had to be given option for being shifted from the erstwhile Hyderabad Telephone District to other areas in the Andhra Pradesh Telecom Circle. But the learned counsel for the respondents contends that para-3 of the Annex.II is not applicable in regard to the JTOs (Junior Telecom Officers - earlier designated as Junier Engineers) as they come under the Circle cadre but not

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under the District Cadre and Para-3 is applicable only with regard to the District Cadre. But, the underlined portion of Para-3 does not indicate that the staff referred to is only in regard to the staff in District Cadre but not in Circle Cadre.

5. At the time of appointment when the applicants were directly recruited, the following term of appointment was included:-

"The appointment carries with it the liability to serve in any part of Hyderabad Telephone District and in special circumstances in any part of India."

Thus, the liability for transfer as per the orders of the appointment is only within the erstwhile Hyderabad Telephone District. Hence, even after reorganisation, the applicants ~~should~~ could not be transferred to other areas in A.P. Circle without their consent so long as they work in the category in which they have been recruited. Hence, even assuming that Para-3 of Annexure-II referred to is not applicable to them, still, in view of the terms of appointment, the applicants could be transferred in their present grade outside Hyderabad Telephone District, only ~~with~~ with their consent.

6. AIR 1991 SC 532 (Mrs. Shilpi Bose and others Vs. State of Bihar and others), referred to for the respondents deals with regard to the circumstances under which an order of transfer can be assailed. But this is a case of instructions issued at the time of re-organisation. They speak about the options. It is made clear that it is necessary to give options in regard to the staff referred to in Para-3 in Annexure-II, in view of the hardship that may be caused

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in case of transfer. So, it cannot be stated that the instructions as per Para-3 in Annexure-II can be ignored.

7. Some of the applicants had been recruited in the other Districts and sought transfer to Hyderabad Telephone District under Rule 38. They had accepted bottom seniority in Hyderabad Telecom & District under the genuine impression that they would not be liable to serve outside the erstwhile Hyderabad Telephone District. Hence, their case also should be dealt with in the same manner as the other applicants directly recruited in the erstwhile Hyderabad Telephone District.

8. In the result, the OA is dismissed in regard to the 13th applicant as infructuous and it is allowed in regard to the remaining applicants and the order of transfer as per the proceedings No.TA/STB/18/2/TAH/II, dated 26.5.1993 is set-aside. No costs.

(Dictated in the open Court).

1.7.87

(P.T. THIRUVENGADAM)
MEMBER (ADMN.)

Neeladri
(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 20th August, 1993.

8/9/93
Dy. Registrar (Jud.)

vsn

Copy to:-

1. Director General, Telecommunications, Union of India, New Delhi.
2. The Chief General Manager, Telecommunications, Andhra Circle, Hyderabad.
3. The General Manager, Telecom District, Hyderabad-33.
4. One copy to Sri. J.V. Laxman Rao, advocate, Flat No.301, Balaji Towers, New Bakaram-380.
5. One copy to Sri. N.V. Raghava Reddy, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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Dated: 20/8/93 -1993

CRDER/JUDGMENT:

M.A/R.A/C.A.N.

O.A.No.

7657/93

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with directions

Dismissed

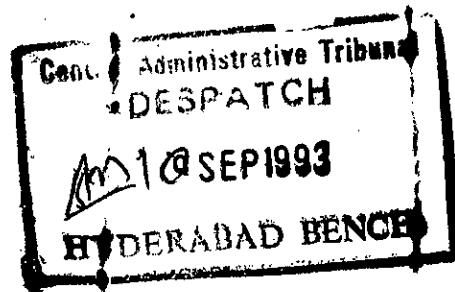
Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEEELADRI RAO
VICE CHAIRMAN

AND