

(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. No. 1127/94.

Dt. of Decision : 20.1.95.

Sri T. Srinivasulu

.. Applicant.

vs

1. The District Engineer-Telecom,  
O/o the District Engineer-Telecom,  
Near Kakatiya Medical College,  
Warangal-506 050.
2. The Sub Divisional Officer (Telecom)  
O/o the Sub Divisional Officer,  
Telecom, Kishanpura, Hanamkonda.
3. The Divisional Engineer-External, (Telecom)  
O/o the Divisional Engineer-External,  
Warangal.
4. Sri Mohd. Osma
5. Sri Mohisin Ali
6. Chief General Manager (Telecom),  
AP Circle, Hyderabad. .. Respondents.  
*(Included as per Bench order U. 12/9/94).*

Counsel for the Applicant : Mr. P.N.A. Christian

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.  
Mr. N.R. Srinivasan, R-445;

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUD.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

D.A.No.1127/94

Dt. of decision: 20-1-95

JUDGEMENT

As per the Hon'ble Sri A.B.Gorthi, Member (A)

The grievance of the applicant is that although he applied for transfer under Rule 38 of P&T Manual Vol.IV on an earlier date, the respondents considered the requests of R-4 and R-5, who had submitted their such requests much later and ordered their transfers vide order dt.3.9.94. His request is that the impugned order dt.3.9.94 be set aside as the same is unlawful and unjust, and for direction to the respondents to transfer the applicant in accordance with his seniority as shown in the waiting list for transfer under Rule 38, dt.12.4.1990.

2. The applicant has submitted a written request on 1.12.89 seeking transfer U/r 38 of P&T Manual Vol.IV and his application was forwarded to higher authority. On the other hand, R-4 submitted his application on 7.12.89 and it was sent up on 10.1.90. Likewise R-5 submitted his application on 22.1.90 and it was transmitted on 29.1.90. Keeping in view the said dates the respondents prepared a wait list and circulated the same vide covering memo. dated 12.4.1990 and in the said wait list, the name of the applicant figured at Sl.No.23, whereas that of R-4 and R-5 figured at Sl.No.24 and 25 respectively. To his surprise, however, the impugned order dt.3.9.94 was issued ordering

the transfers of R-4 and R-5 but ignoring the case of the applicant. Both the official respondents and party respondents filed their counter affidavits. The contention of the respondents No.4 and 5 is that they submitted their requests for transfer U/r 38 of P&T Manual Vo.IV on 4.1.89 and 29.12.88 respectively. As these dates were not correctly reflected in the wait list dt.12.4.90 they submitted their representations to the higher authorities. Their representations were not favourably considered, but the issue was further discussed by a committee constituted as per the decision of the local JCM. The committee comprised two Departmental officials and three Members representing the Staff Side. The committee after carefully examining the issue found that the dates of submission of the requests by R-4 and R-5 were different from those stated in the wait list. Accordingly, the committee proposed a revised wait list in which the names of R-4 and R-5 figured at Sl.No.s.4 and 2 respectively. In the proposed revised wait list the name of the applicant was at Sl.No.11. Thus, R-4 and R-5 stated that they were rightly considered senior to the applicant in the matter of transfer U/r 38.

3. The official respondents in their counter affidavit have also stated the same as has been stated by the party respondents. It is further seen from the counter that the official respondents went by the proposed/suggested seniority list submitted by the above stated committee and thus ordered the transfers of R-4 and R-5 without considering the case of the applicant.

4. Heard the learned counsel for the parties. Mr. P.N.A. Christian, learned counsel for the applicant urged that the applications initially submitted by the R-4 and R-5 were defective and not in the correct form and as such they were initially turned down by the department. Thereafter, R-4 submitted his fresh application <sup>and R-5 &</sup> later than the date when the applicant submitted his application. Consequently, his contention is that R-4 and R-5 could not have been shown above the applicant in the wait list under any circumstances. In this context, the contention of Sri Srinivasan, learned counsel for R-4 and R-5 is that the respondents submitted their applications much earlier than the <sup>as</sup> applicant made his application and the same was not entertained properly by the department, <sup>as</sup> R-4 and R-5 <sup>should</sup> ~~finalised~~ could not be ~~finalised~~ when R-4 and R-5 saw that their names were not correctly shown in the wait list, dt. 12.4.90 prepared by the Department, they <sup>as</sup> ~~they~~ immediately represented to the authorities stating that the dates of submitting their applications should be correctly shown taking into consideration the date on which they initially submitted their application. This was the issue that was examined by the committee constituted by the JCM and the committee having finally suggested that the dates of receipt of applications of R-4 and R-5 should be taken as 4.1.89 and 29.12.88 respectively, their cases were considered in the Sub-Division on the basis of such revised seniority for the purpose of their transfer.

5. Sri Devaraj, learned standing counsel for the Central Government, while reiterating what has been clarified in the counter affidavit has stated that the department had the entire matter duly examined by the committee that was constituted by the JCM and went by the final suggestions made by the said committee. In other words, his contention is that the department acted bona fide and reasonably and fairly.

6. Sri Christian questioned the validity of the JCM constituted a committee to go into the issue of this nature, which more or less pertained to the problems of individual employees, which is not within the scope of discussion by JCM. This may be true. What is more relevant in the case before us is to see whether or not, the department acted fairly and reasonably in the matter of revising the wait list for transfers U/r 38. The manner in which the entire issue was examined and re-examined by the Department before the wait list was altered would indicate that it was done fairly.

7. Mr. Christian stated that what is on record is only a proposed/suggested list as prepared by the Committee and there is nothing on record to show that a final list was prepared by the Department and that it was circulated to all concerned. From the counter affidavit filed by the Department it is seen that the Department has accepted the suggested revised waiting list but no final waiting list as such

is on record. Even if the department had not prepared final waiting list, we do not see why such an omission should come in the way of the Department ordering the impugned transfers of Respondents 4 and 5.

8. We have examined the case carefully and have heard the counsel at length. Looking <sup>at</sup> the case from ~~the many~~ <sup>any</sup> ~~many~~ <sup>and</sup> ~~any~~ angles, we are unable to discern <sup>any</sup> ~~any~~ unfairness or unreasonable <sup>and</sup> ~~any~~ <sup>any, however, observe</sup> order of transfer. We also ~~find~~ that the name of the applicant having figured at Sl. No. 11 of the revised wait list, the Department would adhere to the same while considering the case of the applicant for transfer under Rule 38 of P&T Manual Vol. IV.

9. In the result, the OA is dismissed. No costs.

*Shri Gorthi*  
( A.B. Gorthi )

Member (A)

*A.V. Haridasan*  
( A.V. Haridasan )

Member (J)

Dt. 20-1-1995

Open Court Dictation.

*Amelia 27-1-95*  
DEPUTY REGISTRAR (J)

kmv

TO

1. The District Engineer, Telecom,  
O/O The District Engineer- Telecom,  
Near Kakatiya Medical College, Warangal-506 050.
2. The Sub Divisional Officer, (Telecom)  
O/O The Sub Divisional Officer, Telecom,  
Kishanpura, Hanamkonda.
3. The Divisional Engineer-External, (Telecom)  
O/O The Divisional Engineer-External,  
Warangal.
4. The <sup>General</sup> Manager, (Telecom), A.P. Circle,  
Hyderabad.
5. One copy to Mr.P.N.Christian, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One spare copy.
9. One copy to Sh. N.V. Srinivasan, Advocate, for (R-445) CAT, Hyderabad.

YLKR

TYPED BY  
CHECKED BY

COMPARED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

ORDER/JUDGEMENT.

M.A/R.P/C.P.No:

in  
O.A.N.O. 1127/94

Admitted and Interim directions  
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Rejected/Ordered

No order as to costs.

*No photocopy*

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