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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No.1067/1996.

DATE: 6 SEPTEMBER, 1996.

Between:

S.H.V.PRASADA RAO. ... Applicant.

And

1. The Chief General Manager,
Telecommunication, Andhra
Pradesh, Doorsanchar Bhavan,
Nampally Station Road, Hyderabad.
2. The Director General, Department
of Telecommunication, New Delhi.
3. The Chairman, Telecom Commission,
New Delhi.
4. The General Manager, Telecom Dt.
Vijayawada.

Respondents.

Counsel for the Applicant: Shri K.Venkateswara Rao.

Counsel for the Respondents: Shri N.R.Devraj, Senior Standing
Counsel for Respondents.

CORAM:

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HON'BLE SHRI JUSTICE B.C.SEKSENA, (VICE-CHAIRMAN) Member, J
ALLAHABAD BENCH

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ORDER

PER HON'BLE SHRI JUSTICE B.C.SEKSENA

After conclusion of the arguments by the learned
counsel for the parties on September 4, 1996, the O.A., was
summarily dismissed for detailed reasons to be pronounced
on 6th of September, 1996. The detailed reasons for the
said Order are being given.

BCL

2. The applicant by an Order dated 19-6-1996 was transferred to Telecommunications, Head Quarters, New Delhi. Feeling aggrieved he filed O.A.No.774/96. The O.A. was disposed of at the admission stage on 28-6-1996 after noting the various contentions advanced on behalf of the applicant and reply to the said contentions by the learned counsel for the respondent, the learned Administrative Member before whom the said O.A. came up for orders, it was directed that the applicant may make representation to the Director General, Department of Telecommunications taking all the available contentions for retaining him at Vijayawada within a period of 15 days and it was also directed after such a representation was received by the Director General, Department of Telecommunications, the same should be disposed of expeditiously and the steps taken to be informed to the applicant by a speaking Order. It was further directed that till such representation is disposed of status-quo as on date should prevail subject to the condition that the applicant would not be relieved from his post none else has been posted as D.E., Vijayawada.

3. This O.A., has been filed to challenge the Order dated 28-8-1996 of the Chief General Manager Telecom A.P. by which the representation of the applicant addressed to the Chairman, Telecom Commission as per directions of this Tribunal was ^{rejected} ~~negotiated~~ by the Deputy General Manager(A) for

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the Chief General Manager, Telecom, Andhra Pradesh. The consequential Order dated 28-8-1996 relieving the applicant from the strength of the Office of the General Manager, Telecom District, Vijayawada on the afternoon of 29-8-1996 with instructions to report as ADG(QA) ⁱⁿ TCHQ, New Delhi has also been challenged.

2. Notice on behalf of the respondents was taken by Mr. N.R.Devraj, Senior Standing counsel for the Central Government.

3. ^g ~~we~~ have heard the ^{learned Counsels for the BCR} parties. The learned counsel for the applicant submitted that the Order dated 28--8--1996 does not comply with the directions given in the Order passed in O.A.774/96 on 28-6-1996. Precisely the submission is that it was not a speaking Order, which was required to be passed. The learned counsel submitted that the various contentions raised in the representation dated 11-6-1996 by the applicant has not been dealt with. He therefore maintains that the Order is not a speaking Order. No doubt, a direction has been given in the order disposing of O.A.774/96 that the applicant shall be served by a speaking order on his representation. The use of the words "SPEAKING ORDER" ^{has} ~~have~~ not to be construed in a pedantic manner. The intention of such a direction has to be appreciated.

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BCR

Respondent No.3 to whom a representation was addressed was clearly not required to exercise quasi judicial powers but to deal with the representation in his administrative capacity. The words "Speaking Order" should be contra distinguished in the context to a bald order or an order not giving any reasons. A perusal of the communication dated 28--8--1996 by the Deputy General Manager contained in Annexure 1 indicates the reasons why it has not been possible to accede to the request of the applicant for his further retention at Andhra Pradesh Telecom Circle. The order clearly states that the representation dated 11--7--1996 addressed to the Chairman, Telecom Circle regarding transfer order to TCSQ as ADG(QA) as also the directions given in O.A.734 of 1996 in the Judgment dated 28-6-1996. We have taken into consideration and the case has been examined in detail by the Competent Authority in TCHQ.

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The communication dt.28-8-96 further goes to indicate the reasons why it was not possible to accede to the applicant's request for further retention in A.P.Telecom Circle. Two reasons have been indicated. Firstly that the applicant belongs to STS/TTS Group-A which has an All India Transfer liability. Secondly that he had a stay of 26 years in A.P. Telecom Circle out of his total service of 28 years as on that date. It has been indicated that this was the reason why the applicant was transferred to TCHQ in New Delhi on the basis of his long stay and also in the interest of service. The reasons in support of the orders of transfer have thus been indicated. In this O.A., the applicant does not deny the factual position that he had a stay of 26 years in AP Telecom Circle out of his total service of 28 years of service as at present. The only plea taken is that while computing the 26 years of service in A.P.Telecom Service, the service rendered by the applicant as Junior Telecom Officer (Circle Cadre) consisting of 10 years has also been taken into account. This plea to my mind is xxxx xxxxx xxxxx xxxx wholly untenable. The authorities have only indicated the total number of years of stay of the applicant in the A.P.Telecom Circle. They do not in any manner contend that the applicant in those 26 years has worked in the capacity he presently holds. The factual position therefore undisputedly is that the applicant, may be in various capacities, has stayed for a total period of 26 years out of 28 years of his career in the A.P.Telecom Circle. The transfer order if it has been passed taking into consideration this

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circumstance, which cannot be said to be irrelevant, was justified.

As noted herein above, the other ground indicated is that the applicant belongs to STS/TTS group-A, which ~~is~~ has an all India Transfer liability. The applicant does not dispute this. Thus the two grounds indicated in Annexure-I for rejecting the representation of the applicant remain uncontroverted.

The learned counsel for the applicant made the very same submissions which had been made by him when OA 774/96 was taken up for orders. The submissions have been noted in para-2 in the order dt.28-6-96 disposing of OA 774/96. The points indicated do not raise any legal grounds. They merely pertain to certain ^{personal} difficulties which the applicant will have to face if the order of transfer is given effect. One of the grounds is that the applicant is building a house ~~a house~~ in Vijayawada for which House Building Advance ^{was} ~~is~~ granted to him. His presence in Vijayawada to complete the house building is essential. In reply to this, learned standing counsel for the respondents drew my attention to the documents for house building advance. Para-1 of this order granting the house building advance clearly stipulated that it was for the purchase of ready built flat. The learned standing counsel for the respondents therefore submits that the plea now being taken by the applicant is baseless that the loan was not taken for building a house but to purchase a ready built house. The

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plea taken that the applicant came to Vijayawada ^{only} at 2 years back and that he is posted in Kotha Gudem and he has never worked in Andhra Circle during this period is factually incorrect and cannot be believed in the face of the uncontroverted fact that out of a total number of 28 years of service, the applicant has stayed in the A.P. Telecom Circle for a total number of 26 years.

The further plea taken is that the transfer of the applicant to New Delhi will effect a separation between him and his wife since his wife is working in Vijayawada and the applicant will have to join at New Delhi. In reply to this plea in the order passed in the earlier O.A., the learned senior standing counsel for the Respondents on instructions from the Law Officer of the Department had submitted that the wife of the applicant being an employee in the department of Telecom can request for her transfer also to Delhi in public interest. The learned counsel for the applicant submits that this is not possible. The applicant's wife will lose her seniority if on her request she is posted to Delhi. Be it as it may, these are all matters which departmental authorities *are* require to consider. They are not legal grounds on the basis of which this Tribunal can grant any relief to the applicant.

The applicant clearly holds a post which has All India transfer liability. The applicant has already had a 26 years of stay in A.P. Circle. Both these grounds are relevant for passing a transfer order.

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In view of the above reasons, the order passed on 4th September, 1996 dismissing the O.A. summarily had been passed. No order as to costs.

B.C. Sakseena

(B.C. SAKSENA)
Vice-Chairman
Allahabad Bench,
MEMBER (J)

Dated: 6^K September, 1996.

Arthi
10/9/96
DY. Registrar (J)

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OA.1067/96.

Copy to:-

1. The Chief General Manager, Telecommunication, A.P. Doorsanchar Bhavan, Nampally station road, Hyd.
2. The Director General, Dept. of Telecommunications, New Delhi.
3. The Chairman, Telecom Commission, New Delhi.
4. The General Manager, Telecom, Dist. Vijayawada.
5. One copy to Sri. K.Venkateswara Rao, Advocate, CAT, Hyd.
6. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

19/9/96

1067/96

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

Justice B.C. Saxena, v.c.

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 6/9/96

ORDER/JUDGEMENT
R.A./C.P./M.A. NO.

O.A. NO.

in

1067/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

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II COURT

