

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 19.8.98

OA 296/97

Avinash Kumar Sharma, Sr. Telephone Operator Assistant (Phones) under Telecom District Manager, Department of Telecommunication, Sawaimadhopur (Raj.).

... Applicant

Versus

1. Union of India through Secretary to the GOI, Ministry of Telecommunication, New Delhi.
2. Chief General Manager, Telecommunication, Rajasthan, Jaipur.
3. Telecom District Manager, Department of Telecommunication, Sawaimadhopur.
4. Divisional Engineer Telecom, Department of Telecommunication, Sawaimadhopur.

... Respondents

CORAM:

HON'BLE MR. GOPAL PRISHIA, VICE CHAIRMAN

For the Applicant

... Mr. R.D. Tripathi

For the Respondents

... Mr. F.A. Gupta, SDE, Gangapur city,
departmental representative

O R D E R

PEP HON'BLE MR. GOPAL PRISHIA, VICE CHAIRMAN

Applicant, Avinash Kumar Sharma, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, assailing the order of his transfer from Gangapur city to Sawaimadhopur in the office of Telecom District Manager.

2. Applicant's case is that while working in Grade-I of TOA (P) he passed the requisite training test and screening and was accordingly appointed and posted as Sr. TOA (P) under restructured cadre w.e.f. 13.10.96. However, he has been transferred to the TIM Office Sawaimadhopur vide the impugned order despite the fact that he is seniormost amongst the senior TOA (P) and is otherwise exempted from such further transfer as per order dated 6.12.94, at Annexure A-7. He represented against his transfer vide his application dated 10.5.97, at Annexure A-6, which is still pending consideration. It has been urged on behalf of the applicant that his father is 75 years old and is suffering from several ailments and that his younger unmarried sister, aged about 37 years, is mentally retarded and both, his father and his sister, are looked after by the applicant himself. It is contended by the applicant that the order of transfer having been passed in violation of the letter dated 6.12.94, at Annexure A-7, is illegal and the applicant being the seniormost

Cf. Krishna

Sr.TOA (P) at Gangapurcity could not be transferred retaining a person junior to him on the post ~~of TOA~~^{OA}. It is further contended that the applicant in these circumstances deserves to be retained at Gangapurcity and he should not have been transferred to Sawaimadhpur.

3. Heard the learned counsel for the applicant and Shri R.A.Gupta, Sub Divisional Engineer, Group Exchanges, Gangapurcity, departmental representative for the respondents. Records of the case have been carefully perused.

4. The contention of the applicant is that he has been transferred by the application of a wrong gradation list of TOA (P) and his seniority has to be ascertained in the restructured cadre of Sr.TOA (P). It is contended that being the seniormost person as Sr.TOA (P), he should not have been transferred from Gangapurcity. The learned counsel for the applicant has also produced a copy of the letter dated 25.11.83, which provides that;

"For transfer of surplus staff, whether from one recruitment unit to another or within the same recruitment unit, seniority would be the only criterion, i.e., transfer will be effected starting from the junior most official in the gradation list."

The learned counsel for the applicant intends to make another representation to the concerned authority regarding personal hardships of the applicant, if any, being suffered by him in view of the impugned order.

5. In view of the facts stated above, this application is disposed of with a direction to the applicant to make a fresh representation to the concerned authority regarding his grievance within a period of 15 days from the date of this order and in case the applicant makes a representation within the aforesaid period to respondent No.3, the same shall be decided on merits with due sympathy within a period of one month from the date of its receipt. The applicant shall be at liberty to file a fresh OA, if he is aggrieved by any decision taken on his representation. No order as to costs.

C.Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN

VK