

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.539/2001

Date of order: 26/3/2002

N.R.Meena, S/o Sh.S.R.Meena, presently working as
C/S C.T.O, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt. of India, Deptt. of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecom, Rajasthan Circle, Jaipur.
3. Principal General Manager, Telecom Distt, Jaipur.
4. B.S.Jaiman, SDE (TT), O/o PGMTD, Jaipur.

...Respondents.

Mr.P.N.Jati : Counsel for applicant

Mr.R.L.Agrawal, proxy of Mr.Bhanwar Bagri for respondents.

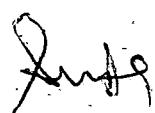
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer (i) to quash and set aside the order dated 6.6.2001 to the extent of posting, (ii) to direct the respondents to quash the posting of the applicant against the unidentified post as DE, Sriganganagar and (iii) to direct the respondents to post the applicant on promotion against the STS of TTS Group-A against the identified post.

2. In brief the grounds of challege as alleged by the applicant are that the applicant alongwith others was promoted from TTS Group-B to STS of TTS Group-A vide order dated 10.5.2001 and his name was at Sl.No.1 of the list of 58 officers. The case of the applicant is that he was required to be posted against one of the 3 identified post



being the senior most but respondent No.2 issued the impugned order dated 6.6.2001 posted respondent No.4 against the identified post at Jaipur in place of the applicant and thus, the action of respondent No.2 is illegal, unjust and against the provisions of Articles 14 and 16 of the Constitution thus the action of the respondents is not sustainable in law. Therefore, the applicant filed this O.A.

3. Reply was filed. In the reply, it is stated that in Rajasthan Circle, only 3 identified posts of STS of TTS Group-A were available and keeping in view of the longest stay of the applicant at Jaipur for 17 years, the applicant was accommodated against the post of DE at Sriganganagar which is the post of STS of TTS Group-A. It is stated that as per DOT's direction dated 24.8.2000, Head of the Circle was competent to take a decision to post the promoted officers of STS of TTS Group-A. Thus, respondent No.2, after taking into consideration the stay of the promoted officers, the applicant was accommodated against unidentified post of DET at Sriganganagar with the direction that as and when a vacancy will be available on identified post, he will be adjusted. The applicant filed representation which was duly considered by the competent authority and disposed of by a reasoned and speaking order dated 9.8.2001. It is stated that respondent No.4 was rightly accommodated against the identified post at Jaipur and thus the order dated 6.6.2001 is perfectly legal and valid. It is also stated that the applicant filed O.A No.241/2001 which was dismissed as withdrawn. Thus, the applicant has no case.

4. Rejoinder was filed. In the rejoinder it has been specifically mentioned that the stay of the applicant at Jaipur was only 17 years whereas the stay of respondent No.4

Surjeet

was of 23 years at Jaipur.

5. Reply to the rejoinder has also been filed stating that as per the service record, the applicant joined at Jaipur on 23.8.84 whereas respondent No.4 joined at Jaipur on 21.11.95. An additional affidavit to this effect has also been filed. The applicant filed reply to the additional affidavit stating that respondent No.4 is at Jaipur w.e.f. 21.10.82 whereas the applicant is at Jaipur since 1988.

6. Heard the learned counsel for the parties and also perused the whole record including the original service book of the applicant and respondent No.4.

7. The learned counsel for the applicant argued that as per order dated 19.12.81, less than 2 years stay out of a station should have been treated as continuous stay at the same station. He stated that the stay at Jaipur has been made as a basis for posting against identified/unidentified post, therefore, on the basis of longer stay at Jaipur by respondent No.4 was required to be posted against unidentified post in place of the applicant at Sriganganagar. On the other hand, the learned counsel for the respondents supported the impugned order dated 6.6.2001 and argued that the order has been perfectly legal on the basis of the criteria fixed by the respondents' department.

8. I have given anxious consideration to the rival contentions of both the parties and perused the whole record.

9. On a perusal of the original record, it appears that the applicant was posted at Jaipur w.e.f. 23.8.83 whereas respondent No.4 remained posted at Jaipur from 14.4.1978 except for the period 18.6.92 to 21.7.92, he remained posted at Kota and from 23.3.95 to 20.11.95 he remained posted at

Singh

Bikaner. It is abundantly clear that the name of the applicant is at the top of the list of 58 promoted officers vide order dated 10.5.2001 and respondent No.4 is at Serial No.42. It also reveals that there were 3 identified posts for promotion against which posting orders were issued. On the basis of the averments made by the parties, it is also clear that the posting orders of these 3 posts alleged to have been issued against identified post on the basis of their longer stay at a particular place. It is also clear that the applicant was posted against unidentified post as DE Sriganganagar, keeping in view his longer stay of 17 years at Jaipur.

10. For a proper appreciation of facts and issue the details of posting of the applicant and respondent No.4 are set out to reach the conclusion as to who is having longer stay at Jaipur.

Sh.N.R.Meena

1988 to 1994, SDE CTO, Jaipur

5.9.94 to 8.12.97 ADTT Circle Office, Jaipur

9.12.97 to March 98 SDE(PR) PGMTD, Jaipur

April 98 to 12.2.99 SDE(AT) PGMTD, Jaipur

16.2.99 to 30.8.99 SDE(Estt) & SDE(GENL) PGMTD JP

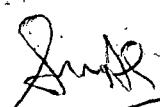
31.8.99 to continue CS CTO Jpr 23.3.95 to 20.11.95 I/C TO BI
21.11.95 to 25.4.96 SDE I/R

CTO JP

26.4.96 to 31.8.97 SDE Sfmss CTO

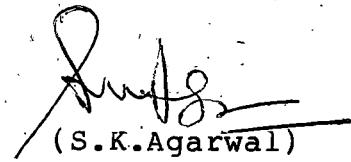
1.9.97 to Continue SDE(G)
CTO, JP.

11. On a perusal of the above chart, it appears that the



respondents' department has posted respondent No.4 at Jaipur treating him to be remained posted continuously w.e.f. 21.10.82 but the respondents ignored the fact that for a period of less than 1 year the respondent No.4 remained at Kota and Bikaner, therefore, these postings should have been ignored and this stay should have been treated as continuous as per the instructions issued by the respondents' department from time to time. In this case, the respondents' department has posted respondent No.4 at Jaipur considering his continuous stay at Jaipur w.e.f. 21.11.95, I think this view of the respondents' department is not sustainable and the impugned order dated 6.6.2001 by which respondent No.4 has been posted at Jaipur and the applicant has been posted as SDE, Sriganganagar is liable to be quashed.

12. I, therefore, allow this O.A and quash the order at Annex. Al dated 6.6.2001 and direct the respondents to pass a fresh order after taking into consideration the stay of the officers at a particular place in view of the instructions issued as per circular dated 19.12.1981. No order as to costs.



(S.K. Agarwal)

Member (J).