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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 137/2002

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 137/2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) Nripendra Deka

Respondent(s) U.O.I & Others.

Advocate for Applicant(s) B. Malakar, Ratul Das

Advocate for Respondent(s) CGSC

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

1.5.2002

Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.

This is an application assailing the legitimacy of the order dated 18.3.2001 posting the applicant at Hatigarh Exchange, under D.E.(OCB)/Dispur. By the aforesaid order the applicant was appointed as Telecom Mechanic on temporary basis in the pay scale of Rs.45,125-7000/- on successful completion of Initial Course Training of Telecom Mechanic at CTO, Bharalumukh, Guwahati from 1.7.96 to 23.8.96 and he was posted at Hatigarh Exchange under D.E.(OCB)/Dispur against the sanctioned post.

The applicant by representation dated 5.4.2002 requested the Divisional Engineer (Admn.) to post him at CTO, Guwahati instead. In the said communication he has referred to an order where by 16 Telecom Mechanic were allowed to stay at CTO, Guwahati.

Contd.

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Contd.

Mr. B. Malakar, learned counsel appearing for the applicant submitted that the applicant being a protected workman and a Trade Union activist, he ought to have not been transferred. I have also heard Mr. A. Dev Roy, learned Sr.C.G.S.C. for the respondents.

13/5
Upon hearing the learned Advocates for the parties and on considering all the aspects of the matter I am of the considered opinion that ends of justice will be met, if a direction is issued to the applicant to make a detailed representation before the authority narrating his grievances. If such representation is made, the respondents shall consider the same on its own merit and pass necessary order thereon as per law expeditiously.

The application thus stands dismissed.
No costs.

JANUARY 1971

bb


Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

ORIGINAL APPLICATION No. 137 of 2002.

Nripendra Deka ... Applicant
Vs.

Union of India ... Respondents

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Filed by

Nous

Advocate.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

An application under Section 19 of
the Central Administrative Tribunal
Act, 1985.

Date of filing :

Regn. No. P

7

Sri Nripendra Deka,
Telegraphman, under CS/CTO/
Panbazar, Guwahati.

Filed by S
Sri Nripendra Deka
Shree
Rajni Das
Advocate

... Applicant

Vs.

Union of India & ors
(Telecom).

... Respondents

1. Particulars of the applicant :

- i) Name : Sri Nripendra Deka
- ii) Father's name : Late
- iii) Designation and office which employed: Telegraphman under CS/CTO/
Panbazar, Guwahati.
- iv) Address for service of notice -do-

2. Particulars of the Respondents :

- i) Name & designation : Union of India, Represented by
the Chief General Manager, Bharat
Sansar Nigam Lt. S R Bora Lane,
Ulubari, 2) Divisional Engineer (Adm)
Office of the GM/BSNL/Kamrup,
Guwahati.
- ii) Office address of the respondents : As above
- iii) Address for service of notice : As above

Nripendra Deka

- X
- M
3. Particulars of the order against which the application is made :

Order No. GMT/Estt-301/01-02/344 dated 18.3.2002.

4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the application is within the jurisdiction of this Tribunal.

5. Limitation :

The applicant further declares that this application is within the limitation prescribed under section 21 of the Act.

6. Facts of the case :

- I. The applicant is working as Telegraphman under the respondent No. 2 and is presently posted at Central Telegraph Office, Panbazar, Guwahati. The applicant is a Trade Union Activist and is the elected Chairman of the NUTE Line Staff & Gr. D and acting Assam Circle Secretary.
- II. That the applicant's promotion was long over due but the Respondent authority on the pretext of a departmental enquiry kept the promotion withheld for which the applicant came before the Tribunal filing an OA which was registered and numbered OA 301 of 2002. The Hon'ble Tribunal vide order dated
- N Datta

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11.7.2001 allowed the application and then only the case of the applicant for promotion was considered.

- iii) That the Respondent No. 2 vide order dated 18.3.2002 issued the promotion order promoting the applicant to the post of Telecom Mechanic retrospectively w.e.f. 17.8.99. By the same order, the applicant has been posted in Hatigarh Exchange under D.E. (OCB)/Dispur against a sanctioned post.

A copy of the order is annexed hereto this application and marked Annexure - A.

- iv) That the applicant begs to state that the Respondent no. 2 vide order dated 6.10.99 issued promotion order to a number of similarly situated person some of whom were junior to the applicant. They are -

- (a) Sri Dulal Ch. Baishya
- (b) Sri R K Barua
- (c) Sri Gobinda Talukdar
- (d) Sri Rohit Ch. Das
- (e) Sri Prafulla Ch. Deka

All these persons were posted under CS/CTO Panbazar bringing them from outside. Now that the promotion order of the applicant has been belatedly issued the applicant has been shunted out from his original place of work.

A copy of the said order is annexed hereto this application and marked Annexure - B.

N. Deka

v) That the applicant further begs to state that more than 10 such phone mechanics have been kept engaged by the Respondent No. 2 in administrative work. This matter was brought to the notice of the authority by the Union side but no action has yet been taken.

vi) That the applicant respectfully submits that transfer being an incident of service and the applicant cannot challenge such order if it is done in the interest of service. But the present case will not come within that purview for the reasons that -

- a) Junior persons have been allowed to work at CTO transferring the applicant to a newly sanctioned post
- b) The transfer order is, therefore, intentional and malafide.

vii) That the applicant has been a trade Union activists. He was All India Joint General Secretary of the National Union of Telegraph Employees, Line Staff and Group D. With the creation of BSNL, the number Unions are being reduced and only those Unions are being reduced and only those Unions with larger numbers will survive and for that there will be head counting. The applicant who is presently elected as

N. Dena

6.

Chairman of NUTE LS & Gr. D and Acting Secretary Assam Circle is being sent to curb his activities. Under the convention, an Office bearer of a Trade Union is not disturbed during his tenure as such Office bearer. But in the present case this has been violated. The transfer order is punitive.

VIII) That the applicant has submitted a representation which has not been disposed as yet. In the event of his transfer the activities of the Union will suffer. The CTO being the Headquarter of all lines staff and Gr. D, they could not be mobilised to keep the registration of Union in tact.

A copy of the representation is annexed hereto and marked Annexure - C.

7. Legal ground.

The applicant's transfer cannot sustain on the ground -

- (i) Persons junior to him have been retained in the Headquarters.
- (ii) by the transfer order it is sought to curtail the trade Union activities of the Union of which he is the Chairman.

The transfer order being malafide and punitive the same is required to be set aside.

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8. Relief Sought.

Under the circumstances, the order dated 18.3.02 so far it relates to his posting at Hatigarh Exchange be set aside to the applicant be allowed to work at CTO Office.

9. Interim order.

Pending disposal of the application, the applicant may be allowed to work at CTO/Panbazar.

10. Remedies Exhausted.

The applicant declares that he has availed remedies available to him.

11. Matter not pending before any other Court or Tribunal.

The applicant declares that the subject matter of this application is not pending before any other court or Tribunal.

12. Particulars of I P O.

No. of the I P O

Name of issuing Post Office

Post Office which payable

N. Singh

12

8.

12. Particular of Index.

An index in duplicate containing details of documents relied upon is enclosed.

13. List of Annexures :

- a) Annexure - A the order impugned
- b) Annexure - B, the promotion order retaining juniors in the Hq. drawn from out-side.
- c) Annexure - C the representation submitted by the applicant.

N. Sene

V e r i f i c a t i o n

I, Sri Nripendra Deka, the applicant above named
do hereby verify that the statements made in paragraphs
1, 2, 3, 4, 5, 6 to (I, II, VII, VIII)^{9, 10, 11, 12} are true to my knowledge and
those made in paragraphs 6 (III, IV, V) being matter
of records are true to my information derived therefrom
which I believe to be true and the rest are my humble
submission.

Nripendra Deka
Signature.

INDIA TELECOM LIMITED
(A Subsidiary of India Enterprise)
OFFICE OF THE GENERAL MANAGER (BSNL)
KAMRUPT DISTRICT, GUWAHATI-781 007.

Memo No. GMT/EST-301/01-02/344
Dated at Guwahati-7, the 18th March, 2001.

On successful completion of Initial Course Training of Telecom. Mechanic at CTTC, Bharatimukh, Guwahati from 01-07-96 to 23-08-96, **Shri Nripendra Deka**, T.Men is hereby appointed as "Telecom. Mechanic" on temporary basis in the pay scale of Rs. 4500-125-7000/- p.m. plus usual allowances as admissible to the BSNL Employees, w.e.from 17.08.1999 and posted in Hatigarh Exchange under D.E.(OCB)/Dispur against the sanctioned posts.

Sd/-
(N.BHASKARAN)
Divisional Engineer (Admin.)

Copy to:

01. The Chief General Manager(BSNL), Assam Circle, Guwahati for favour of information.
02. The DE/CTO, Panbazar. He is requested to release the official under intimation to all concerned.
03. The D.E.(OCB)/Dispur. He is requested to intimate the date of joining as soon as the official reports.
04. The Officials concerned. (DE/CTO)
- 05-06. Service Book/Personal File of the officials.
07. The in-charge, Hatigarh Exchange.
08. E-3.
09. Spare.

Ranjan
For GM(BSNL)/Kamrup/GH-7

*True copy
Ranjan
Kamrup*

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER, TELECOMMUNICATIONS.
KAMRUP TELECOM. DISTRICT.
GUWAHATI: 781 007

Memo No. GMT/EST-301/99-2000/116
Dated at Guwahati-7, the 6th October '99.

In partial modification to this office Memo No. GMT/EST-301/99-2000/89 Dtd. 15.09.99, the following orders are issued by changing place of posting.

Sl. No.	Name of the Official	Design.	Original Working Place	Present posing as P.M.	Modified posting as P.M.
01(28)	Sri Hari Charan Nath	Teleg. Man	DE(CTO)/GH.	SDOT/Kam. Changsari	SDOT/Kam.
02(29)	" Bipin Ch. Baishya	-do-	-do-	SDOP/Kala.	DE/CTO.
03(30)	" Jogen Ch. Kalita	-do-	-do-	SDE(Elec) I/D.	-do-
04(31)	" Mahadev Das	-do-	-do-	SDOP/Kala.	-do-
05(32)	" Chandra Kt. Kakati	BCR/Peon	DE(MW/Mtc.)	DE(Instln) tln.) GH, Zoo-Rd.	DE(Inst tln.) GH,
06(35)	" Sushim Ch. Sarma	Teleg. Man	DE(CTO)/GH.	-do-	-do-
07(36)	" Jamini Kt. Das-I	-do-	-do-	SDE(Elec) O/D.	DE/CTO.
08(41)	" Suren Tamuly	-do-	-do-	SDOP/C-I	North-GH. und-
09(43)	" Ananda Kr. Sarma	-do-	-do-	SDE(Elec) I/D.	DE/CTO.
10(46)	" F. R. Mirak	-do-	-do-	North GH. under	-do-
11(48)	" Dibakar Sarma	-do-	-do-	SDE(Elec) I/D.	-do-
12(53)	" M. C. Basumatary	-do-	-do-	SDOP/Panjabari	Jorabat under SDOT/Kam.
13(57)	" Dulal Ch. Baishya	-do-	-do-	SDOP/Adabari	DE/CTO.
14(61)	" R. K. Baruah	-do-	-do-	SDOP-I/Dispur	-do-
15(62)	" Gobinda Talukdar	-do-	-do-	SDE(Elec) I/D.	-do-
16(63)	" T. K. Das-II	-do-	-do-	Kamalpur under SDOT/RNY.	SDOP/NMT.
17(64)	" Rohit Ch. Das	-do-	-do-	SDOP-I/Dispur	DE/CTO.
18(72)	" Prafulla Ch. Deka	-do-	-do-	SDE(Elec) I/D.	-do-

Sd/-
Divisional Engineer (Admin)
O/C the G.M.T.D. Guwahati-7

Copy to :
01-03. The DE(CTO)/(Installation/Kamrup/GH)/(MW-Mtee.)
04-05. The DE(CTO)/(Kamrup)/(Panjabari)

*Time copy
Now*

(1216)

To
The Divisional Engineer (Admn)
O/O the General Manager Kamrup Telecom District
Ulubari, Guwahati-781007

Dated at Guwahati the 5.4.02

(Through proper channel)

Subj:- Prayer for posting at CTO Guwahati

Ref:- Your office letter No. GMT/BSF-301/01-02/344
dtd. at Guwahati the 18th March/2001.

Sir,

With reference to your above cited letter regarding posting as "Telecom Mechanic" in this respect, I would required your goodness kindly to post me at CTO Guwahati itself, else I will have to face innumerable trouble for my minor school going children as well as my family.

Sir, it is observed that orders of 16 Telecom Mechanics has been issued long before allowing them to work at CTO Guwahati. In the same manner issuance of order in my favour allowing me to join at CTO Guwahati which will be more helpful to me and save me from unavoidable troubles.

With Thanks,

Yours Faithfully

(Nripendra Deka)
Telegraph Man (O)
CTO Guwahati

N.B. Advance copy to DE(Admn) for necessary action.
O/O the GM Kamrup (BSNL)
Ulubari, Guwahati-781007

(Nripendra Deka)
T/Man(O)
CTO-Guwahati

.....

True copy
N.S.