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**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH,**  
**JA BALPUR**

**Original Application No.739 of 2006**

**Jabalpur, this the 11<sup>th</sup> day of December, 2006.**

**Hon'ble Dr.G.C.Srivastava, Vice Chairman**

**S.K.Shrivastava, General Manager (NC), In the O/o  
Chief General Manager (Telecom), M.P.Circle, Bhopal  
(M.P.) (U/o transfer to Jammu & Kashmir Circle)**

**-Applicant**

(By Advocate – Shri Manoj Sharma)

**V E R S U S**

1. Union of India, Through its Secretary, Department of Telecom, Ministry of Communication & IT, Sanchar Bhawan, Ashoka Road, New Delhi.
2. The Chairman-cum-Managing Director, Bharat Sanchar Nigam Ltd., Statesman House, Barakhamba Road, New Delhi.
3. The Chief General Manager, M.P.Telcom Circle, Bharat Sanchar Nigam Ltd., Hoshangabad Road, Bhopal (M.P.).

**-Respondents**

(By Advocate – Shri A.P.Khare)

**O R D E R**

This Original Application has been filed against the order dated 12<sup>th</sup> August, 2006 (annexure A-1) by which the applicant has been transferred to Jammu against a diverted post. Through this OA, the applicant has sought for the following main relief:

“(ii) Quash and set aside the impugned order of transfer dated 12.8.2006, so far as the same relates to applicant.

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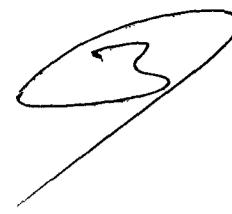


(iii) Direct the respondents not to disturb the applicant in any manner whatsoever from continuing in M.P. Circle during his full tenure".

2. The case of the applicant is that he is an Indian Telecom Service Officer and has been working as General Manager, BSNL Circle Office, Bhopal since 17.7.2004. In order to fulfill the requirement of doing one hard posting, he submitted an application on 16.5.2006 (annexure A-3) giving his option for posting in one of the hard tenure circles – Shillong, Jammu and A&N islands, although normally he would have had a tenure of 8 years in Bhopal Circle. Subsequently, because of certain family circumstances, he withdrew his option vide letter dated 31.7.2006 (annexure A-4). Despite withdrawal of his option, he was transferred to Jammu through the impugned order issued on 12.8.2006. The applicant represented against this order on 17.8.2006 (annexure A-5) but he did not receive any reply; instead an order relieving him was issued on 23.9.2006 (annexure A-6). Hence, this Original Application.

3. In their reply, the respondents have admitted that as per the transfer policy, the normal tenure for posting in a circle is 8 years but the competent authority has the power to transfer officers in the interest of service as and when required. The contention of the respondents is that the impugned order was issued on the ground of administrative requirement in Jammu & Kashmir circle and also based on the request made by the applicant to transfer him to Jammu. It has been stated by the respondents that in Jammu & Kashmir Telecom Circle, expansion of telecom service of BSNL has been going on and man power is accordingly urgently required. That is why, the applicant has been posted to Jammu & Kashmir





Telecom Circle in the interest of service and also based on his request letter dated 15.5.2006. The respondents have also taken a preliminary objection that BSNL is a public sector undertaking and does not come within the purview of this Tribunal. Hence, the OA is not maintainable.

4. In his rejoinder, the applicant has stated that he, being an Indian Telecom Service Officer, continues to be a Central Government employee and not an employee of the BSNL. It has also been submitted, during argument, that the Central Government employees are still continuing on deputation with BSNL and have not yet been absorbed. This has not been controverted by the respondents. In view of this, the preliminary objection regarding maintainability of this OA is not sustainable.

5. Heard the arguments advanced by the counsel of both the parties. I have also gone through the transfer policy which has been filed by the applicant as annexure A-2. It has been admitted by the respondents that in normal course the applicant would not have been due for transfer from Bhopal as he had not completed his tenure. There is no doubt that the proposal to transfer the applicant was initiated because of the request made by him. Now, however, the respondents have tried to justify the order also on the ground of administrative requirement in J&K circle. The respondents have not denied the submission made by the applicant that he withdrew his option some time before the transfer order was issued. In view of this submission, it would have been appropriate for the respondents to re-examine the case of the applicant whether despite withdrawal of the request he should still be transferred to J&K circle. The reasoning given by the applicant that he gave his





option for hard posting only with a view to go through this category of compulsory posting at this stage in his career appears to be fairly convincing. However, since he had completed just two years in Bhopal circle, there is nothing wrong in his withdrawing the request if subsequent family circumstances needed his presence at Bhopal.

6. It is a well established principle that normally Tribunals are not expected to interfere with transfer orders. The learned counsel for the respondents has reproduced the following observations of the apex court in the case of **National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and another**, 2001 (8) SSC 574.

“5. On a careful consideration of the submissions of the learned counsel on either side and the relevant Rules to which our attention has been invited to, we are of the view that the High Court was not justified in interfering with the impugned orders of transfer. It is by now well settled and often reiterated by this Court that no government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders as a matter of routine, as though they are the appellate authorities substituting their own decision for that of the management, as against such orders passed in the interest of administrative exigencies of the service concerned. On the facts and circumstances of the cases before us, we are also unable to agree with the learned counsel for the respondents that Rule 4.1.1 of the Seniority Rules interdicts any transfer of the employees from one office or project or unit to any one of the other as long as the seniority of such an employee is



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protected based on the length of service with reference to the date of promotion or appointment to the grade concerned irrespective of the date of transfer. We also consider it to be a mere submission in vain, the one urged on the basis of alleged adverse consequences detrimental to their seniority resulting from such transfer. In the facts of the present cases, at any rate, no such result is bound to occur since the Project undertaken to which the respondents have been transferred is itself a new one and, therefore, we see no rhyme or reason in the alleged grievance".

7. I find that in the instant case, the applicant has approached this Tribunal directly without representing against the relieving order. Having found justification in the submissions made by the applicant, this Tribunal vide an interim order dated 17.10.2006 had stayed the operation of the impugned order in so far as it concerns the applicant as also his relieving order. Considering the circumstances of the case, and the aforementioned observations of the apex court, I am of the view that ends of justice would be met if the applicant is allowed to make a detailed representation against the impugned transfer and relieving orders, and the respondents consider the submissions and take a final view in the matter giving due consideration to the facts that the applicant had not completed his normal tenure at his present place of posting and had also withdrawn his option for his posting in Jammu much before issue of the impugned transfer order.

8. I accordingly direct the applicant to submit a detailed representation to the competent authority within a period of two weeks from the date of receipt of a copy of this order and if it is done, the respondents are directed to consider the representation, keeping the aforementioned observations in view, and take a final decision on transfer or otherwise of the applicant to J&K Circle, within a period of two months. Until then, the impugned order

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(annexure A-1), in so far as it relates to the applicant, and the relieving order (annexure A-6) shall not be given effect to. With these directions, the OA is disposed of. No costs.

Ganesh  
 (Dr. G.C. Srivastava)  
 Vice Chairman

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पूर्वांकन सं. ओ/न्या.....जलनपुर, दि.....

प्रतिलिपि दाखे घिट:-

- (1) राधिया, उच्च प्रान्तरालय दाखे उद्योगिशाला, जलनपुर
- (2) आंदोलक दीप्ति निकामी/जु.....के काउंसल
- (3) एस्टेटी दीप्ति निकामी/जु.....के काउंसल
- (4) बांधाल, कोडाझा, जलनपुर एकात्मक  
सूचना एवं आवश्यक यार्डेक्टी देतु।

उप रजिस्ट्रार

मार्च 6 था 2000  
 Dr. P. K. K. 2000  
 पर्सनल 2000

Despatched  
on 27/12/00  
By

संकेत