

Central Administrative Tribunal
Jabalpur Bench

OA No.498/05 & MA No. 1005/2005

Jabalpur, this the 16th day of December 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

Shri P.K.Jain
S/o Shri P.C.Jain Margekar
Director Telecom
(Department of Telecom)
Presently on deputation to BSNL as
Dy.General Manager (Maintenance)
W.T.R., Jabalpur.

Applicant.

(By advocate: Shri Manoj Sharma)

Versus

1. Union of India through
its Secretary
Department of Telecom
Ministry of Communication and I.T.
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
Western Telecom Region
Mumbai.
4. Shri R.K.P.Hinduja
Sr.D.D.G.(Personnel)
BSNL Head Office
Statesman House
Barakhamba Road
New Delhi.

(By advocate Shri A.P.Khare for official respondents.)



OA No.498/05

Date 19th May, 2005

Shri Manoj Sharma for applicant.
Shri A.P.Khare for respondents.

Issue notice.

Shri A.P.Khare accepts notice on behalf of respondents.

Respondents are directed to file reply within 4 weeks with a copy to the applicant who may file rejoinder within 2 weeks thereafter.

List for completion of pleadings before Registrar.

The applicant has also prayed for a stay of the operation of the impugned transfer order dated 10th May 2005 (Annexure A1) and further sought a direction to restrain the respondents from affecting the applicant in any manner whatsoever from his present place of posting during the pendency of the OA.

Heard learned counsel of the applicant on interim relief.

Learned counsel of the applicant submitted that the applicant has been transferred from Jabalpur to Dimapur in Nagaland (NE-II Telecom Circle). He submitted that the applicant is a Group 'A' officer. The normal transfers of the officers of his level are made during the month of March 2005 and this transfer is not a normal transfer but has been ordered at the behest of the Union of Group 'B' officers. He has drawn our attention to two letters written by BSNL HQ dated 15th March 2005 and 18th March 2005 (Annexures A5 & A6) whereby instructions have been issued to all CGMs of BSNL to take action against the erring Group 'B' officers who are threatening to go on mass casual leave and also to go on relay hunger strike,



thereby disrupting the communication network in the country. Shri P.K.Jain, DGMM, who is in charge of Western Telecom Region (WTR), Jabalpur has to take strict action against the erring Group 'B' officers in order to make sure that the telecom services are not adversely affected due to the ongoing agitational programme of the Executive Association.

The applicant, vide his letter dated 30.3.2005 (Annexure A7), has made a complaint and also recommended transfer of one Pramod Kumar Jain, Sub Divisional Engineer, Jabalpur and this Pramod Kumar Jain has been transferred from Jabalpur to Vidisha vide order dated 19th April, 2005 (Annexure A8). Thereafter, the Executive Association of Group 'B' officers has made a complaint against the applicant to Shri A.K.Sinha, Chairman & Managing Director of BSNL, requesting him to transfer the applicant out of Jabalpur Circle on the ground that the applicant has been working in the same station since 15.2.1998 and avoiding his transfer. When he was ordered for his transfer out of M.P.Circle in early 2001, he managed to get his transfer order modified to WTR and remained posted in the same station i.e. Jabalpur. In fact, he is working in M.P. ever since he joined DoT as ADET and thus he never went out of Madhya Pradesh. On receipt of this complaint, the impugned transfer order of the applicant dated 10th May 2005 has been issued.

The Indian Telecom Service Association vide its letter dated 9th May 2005 (Annexure A12) has also written a letter to the Chairman & Managing Director of BSNL not to transfer the applicant outside the circle on the ground that the applicant is the Circle Secretary for ITSA, Jabalpur chapter till January 2006 and the transfer is contemplated based on the recommendation of other associations. They have also written that if transfers of office bearers are considered based on letters from unions/associations, it is likely to be



interpreted as weakness of the BSNL management for a particular union/association and will set a bad precedence.

Learned counsel of the applicant has also stated that the facts mentioned in the letter written by Group 'B' officers that the applicant has been staying at Jabalpur ever since he joined the DoT are also wrong. According to him, the applicant had worked at various places in the country such as Mumbai, Raipur and other places, before coming to the present place of posting. Learned counsel has drawn our attention to Transfer and Posting Policy issued by the DoT dated 25th February 2003 (Annexure A3). The applicant is a Junior Administrative Grade Officer and as per this policy, for an officer of JAG, the post tenure is 4 years, Station Tenure is 8 years and Circle tenure is also 8 years. Unless the applicant completes post tenure 4 years and station/circle tenure 8 years, he should not be considered for posting outside the station/circle. He has also submitted that the applicant is working in the present circle since 2001 and, therefore, has not completed his normal tenure of 8 years. It is, therefore, quite clear that the applicant has been transferred on the complaint of Group 'B' officers and that he has been transferred to such a remote and far off place of the country. He also submitted that one G.K.Sutar who was on 17th March 2005 itself posted to NE-II Circle has been posted to NETF and the applicant has been transferred to Nagaland. Learned counsel has also submitted that the applicant is having a number of ^{cases} personal \angle pending in various courts at Jabalpur and his personal presence is required at Jabalpur to pursue those cases. If the transfer order issued by the BSNL is implemented, irreparable loss will be caused to the applicant.

Keeping in view all facts and circumstances of the case and also considering the various submissions made by the learned counsel of the applicant, we find that prima facie, the learned counsel of the applicant has made out a case and the balance of convenience is in

favour of the applicant and if the order of transfer is implemented, irreparable loss which cannot be compensated, will be caused to the applicant.

We, therefore, direct the respondents to maintain status quo as existed today.

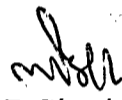
Issue notice to the respondents to file a short reply within a week.

List this case for hearing on interim relief on 27th May 2005.

Certified copy of this order be supplied to the parties.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

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*cc issd
on
20.5.05*