

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR.

....

Original Application No. 01 of 2002

this the 20th day of February 2003.

HON'BLE MRS. MEERA CHIBBER, MEMBER (J)

Balaram Nagarchi, S/o Sri Prem Lal, aged about 38 years,
R/o House No. 2/14, T&D Colony, Jabalpur.

Applicant.

By Advocate : Smt. S. Menon.

Versus.

1. Union of India through the Secretary, Ministry of Communications, Sanchar Bhawan, 20, Ashoka Road, New Delhi.
2. The Bharat Sanchar Nigam Limited, Sanchar Bhawan, New Delhi through the Chief Managing Director.
3. Chief General Manager, Telecommunications, M.P. Telecom Circle, Hoshangabad Road, Bhopal.
4. Chief General Manager, T&D Circle, Jabalpur.

Respondents.

By Advocate : Sri S.P. Singh.

ORDER (ORAL)

The grievance of the applicant in this case is that even though he had been requesting for transfer on his own request from 1991 onwards and even the order had also been issued on 28.02.2001 transferring him from T&D Jabalpur to TDM Durg (page 25), yet he has not been relieved at the transferred place and only ground taken by the respondents in their Counter affidavit is that since the vigilance clearance was not given and enquiry was contemplated against him and transfer order was itself conditional subject to there being no vigilance/disciplinary case is pending or contemplated against the official, therefore, the applicant could not be relieved. According to the applicant, this



reasoning is absolutely wrong because from the year 1991 onwards there was no disciplinary or vigilance case pending against him, which is evident from the certificates issued by the respondents from time to time, which are annexed with the O.A., but it was only on 5.2.2001 (page 20) that an explanation was called from the applicant, which was replied to by the applicant on 12.3.2001 itself (page 23) ^{E. In B} and till date no action has been taken by the respondents thereon, inasmuch as neither any chargesheet has been issued to the applicant, nor there is any other impediment in the way of the applicant. On the contrary, vide order dated 28.1.2003 the applicant has been promoted as Section Supervisor w.e.f. 8.7.2002, therefore, he has submitted that if he could be promoted to the next higher post, definitely the contention of the respondents cannot be accepted that there is ^{is} vigilance case pending against him because in that case, he would not have been promoted and since he had already been promoted, there can be no justification to refuse him transfer and even if the respondents decide to initiate any inquiry against the applicant, it can be ^{always} held at the place where the applicant is being transferred. Therefore, the applicant has prayed that the respondents be directed to relieve the applicant to join at the place of his transfer on request as allowed by the respondents vide their order dated 28.2.2001.

2. The respondents have opposed the O.A. and have submitted that the transfer on request was made subject to the condition that there is no vigilance/disciplinary case ~~is~~ pending or contemplated against the individual, ^{vigilance enquiry} whereas in the instant case ^{is} already contemplated to initiate the disciplinary proceedings against him, which is evident from Annexure R-3 filed by the respondents,



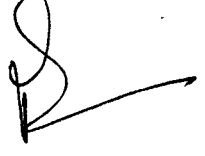
wherein vigilance clearance has not been given to the applicant. They have further submitted that as per Annexure R-1 the place where the applicant has been transferred, the authorities had written a letter that since the post of TOA is not vacant at Raipur, the applicant cannot be adjusted against Raipur, therefore, the applicant was informed vide letter dated 30.8.2001 that he may move a fresh application for transfer under para 38 of P&T Vol. IV for further action, but till date the applicant has not submitted any fresh application. They have, thus, submitted that the relief as claimed by the applicant cannot be given to him and the O.A. may be dismissed with costs.

3. I have heard both the counsel and perused the pleadings as well.

4. As per ~~the~~ applicant's own showing at the time when the applicant was transferred from Jabalpur to Durg vide order dated 28.2.2001, he was holding the post of TOA, while thereafter during the pendency of the O.A. he has been promoted as Section Supervisor, so naturally the transfer which was done in the capacity of TOA cannot hold good in the changed circumstances. Therefore, in any case the applicant would have to give a fresh application for transfer on request and incase the applicant gives such an application to the respondents, I am sure that ~~they~~ would consider all the aspects of the matter keeping in view ~~the~~ applicant had already been given promotion also to the next higher post and then pass appropriate orders on his representation within a period of three months from the date of receipt of such representation.



5. With the above directions, the O.A. stands disposed off finally with no order as to costs.



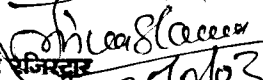
(Mrs. Meera Chhibber)
Member (J)

Girish/-

पृष्ठक्रम सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अद्योपित:-

- (1) राबिब, उच्च न्यायालय द्वार एडवोकेट, जबलपुर
- (2) आदेशिका श्री/श्रीमती/शु..... काउंसल
- (3) प्रत्यक्ष श्री/श्रीमती/शु..... काउंसल
- (4) व्यवसाय, निष्पत्ति, जबलपुर.....

सूचना एवं आवश्यक कार्यवाही हेतु


उप निरीक्षक 25/10/03

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On 25.2.03
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