

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.112/2006.

Jaipur, this the 24<sup>th</sup> day of March 2006.

**CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.**

D. L. Mandarawalia  
S/o Shri Hazari Lal,  
Aged about 57 years,  
R/o 10, Shiv Bihar Colony, Abhyanta Nagar,  
Vaishali Nagar,  
Ajmer.

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India  
Through Secretary to the Government of India,  
Department of Telecommunication,  
Ministry of Communication and Information Technology  
20 Ashoka Road, Sanchar Bhawan,  
New Delhi 110 001.
2. Chairman cum Managing Director,  
Bharat Sanchar Nigam Limited,  
B-102, Statesman House,  
Barakhamba Road,  
New Delhi 110 011.
3. Chief General Manager Telecommunicatons,  
Rajasthan Telecommunication Circle,  
Sardar Patel Marg, BSNL,  
C-Scheme,  
Jaipur.
4. General Manager,  
Telecom District, BSNL,  
Near Jawahar Rangmuchi,  
District Ajmer .

... Respondents.

**: O R D E R (ORAL) :**

The applicant has filed this OA thereby praying for  
the following reliefs :-

"(i) That the entire record relating to the case may kindly be called for from the respondents and after perusing the same transfer order of the applicant from Ajmer to Gujarat Circle vide memo dated 4/7/2005 (Annexure A/1) with the memos dated 1/03/2006 and 10/03/2006 (Annexure A/6 & Annexure A/7) be quashed and set aside with all consequential benefits.

(ii) That the respondents may be further directed to allow the applicant to work at Ajmer till completion of post tenure or till retirement.

(iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit just and proper under the facts and circumstances of the case.

(iv) That the costs of this application may be awarded."

2. Briefly stated, the facts of the case are that the applicant belongs to Indian Telecom Service Group-A cadre and presently holding the post of Divisional Engineer (Task Force) in the office of General manager, Telecom, BSNL, District Ajmer. In sum and substance the grievance of the applicant is regarding his transfer to Gujarat Telecom Circle thereby relieving and striking of his name from the strength of the Ajmer Telecom District, which transfer according to the applicant is based on political interference and against the norms of the department. When the matter was taken up for admission, attention of the Learned Counsel for the applicant was invited to the decision rendered by this Tribunal in the case of P. K. Saha vs. Union of India & Ors., OA No.391/2005 with MA No.427/2005, decided on 22.02.2006, whereby this Tribunal has gone into the question regarding jurisdiction of this

Tribunal to entertain the petition filed by the applicant who belongs to the Indian Telecom Service, Group-A cadre, as is the case in the case of present applicant and was sent on deputation to MTNL and ~~his~~ his grievance was regarding the order passed by the MTNL/BSNL and was not connected with the post which the applicant was holding by virtue of his position as the Member of the Indian Telecom Service, Group-A cadre and it was held that this Tribunal has got no jurisdiction to entertain such matter. While rendering the aforesaid judgment, this Tribunal has taken into consideration the decision rendered by the Delhi High Court in the case of Ram Gopal Verma vs. Union of India, 2001 (7) SLR 693 and the decision of the Bombay High Court in the case of Bharat Sanchar Nigam Limited vs. A. R. Patil and Ors. etc., 2002 Vol.3 ATJ 1. At this stage, it will be useful to quote Para 8 and part of Para 9 of the judgment rendered in the case of P. K. Saha (supra), which thus reads as under :-

"8. At the outset, it may be stated that the decision relied by the applicant in OA No.1963/2005 and other connected matters filed by the Indian Telecom Service Association against exercising their option for absorption in MTNL/BSNL is of no assistance to the applicant inasmuch as in that OA the question of jurisdiction was not raised and dealt by the Tribunal. According to me, the matter is squarely covered by the decision rendered by the Delhi High court in the case of Ram Gopal Verma (supra) as well as the decision rendered by the Bombay High court in the case of A. R. Patil & Ors. (supra). In the case of Ram Gopal Verma, the petitioner therein belongs to TES Group-B in the Department of Telecommunication and was sent on deputation to MTNL where he was placed under suspension. The petitioner challenged his suspension order in the Tribunal. The OA was

dismissed on the ground of jurisdiction as the Tribunal hold that the Tribunal would assume jurisdiction in respect of MTNL only upon a notification issued by the Central Government under Section 14(2) of the Administrative Tribunals Act, 1985. Since the Central Government had not issued any notification under Section 14(2) of the Act, the Tribunal was not vested with any jurisdiction to entertain any petition relating to any service dispute in MTNL. The Hon'ble High Court upheld the judgment of the Tribunal and after noticing the provisions contained in Section 14 (2) of the Administrative Tribunal Act and after relying on the judgment of the Apex Court in the case of A.P. State Electricity Board v. M.A. Hai Azami, 1992 (6) SLR 167 (SC) has made the following observations in Para 4 to 7 which reads as under :-

"4. Learned Counsel for Respondent Mr. Jayant Bhushan, on the contrary submitted that MTNL, a Government Company could be brought within the jurisdiction of Tribunal only by a notification to be issued by the Central Government under Section 14(2) of the Act and so long as this notification was not issued, Tribunal could not assumed jurisdiction in respect of any service matter under MTNL. He placed reliance on a Supreme Court judgment in A.P. State Electricity Board v. M.A. Hai Azami, 1991 Supp (1) Supreme Court Cases 660 which according to him squarely covered the point in issue ousting Tribunal's jurisdiction over MTNL.

5. There is no dispute that MTNL was a Government company incorporated under the Companies Act and was a distinct legal entity. It is also admitted by both sides that it was not covered by provisions of Section 14(1) of the Act and could be brought within Tribunal jurisdiction only through a notification to be issued by Central Government. This sub-section reads thus :-

"(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India and to corporations (or societies) owned or controlled by Government, not being a local or other authority or corporation (or society) controlled or owned by a State Government.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the jurisdiction, powers and authority

exercisable immediately before that date by all courts (except the Supreme Court) in relation to -

(a) .....

(b) .....

A combined readings of the two provisions shows that provisions of sub-section (3) could be applied to local or other authorities under the control of the Government and to Corporations or societies owned and controlled by the Government by a Notification to be issued by the Central Government. No such notification was admittedly issued till date to extend jurisdiction of Tribunal to MTNL. That being so, was Tribunal still obliged to entertain petitioner's OA challenging his suspension order which was passed by General Manager of MTNL and which was not endorsed to have been approved by DOT. The answer in our view was in negative because petitioner was challenging suspension order passed by the Chief General Manager of MTNL suspending him from the post of SDE (Cables), a post under MTNL and not from any post under DOT. It is true that petitioner maintained his lien to the TES Group B service in DOT but that was of no avail to him because his challenge was directed against suspension from the post of SDE (Cables) in MTNL and passed by the Competent Authority of MTNL. His service status enjoyed by him in DOT would not confer jurisdiction on Tribunal which otherwise was not admittedly vested in it for want of requisite notification under Section 14 (2). Therefore, even when he held a lien on the post of TES Officer, his grievance directed against order suspending him from the post of SDE (Cables) in MTNL was not entertainable by Tribunal for lack of jurisdiction. It is also not the case that impugned order of his suspension was a composite order passed with the approval of DOT which could perhaps provide some basis for Tribunal's jurisdiction. This order was passed by the Chief General Manager on his own and it is not for us to examine whether it was passed validly or otherwise.

6. We are supported in this by the Supreme Court judgment in A. P. State Electricity Board (supra) which also dealt with a similar case of a deputationist holding that so long as concerned employee had sought relief against the Electricity Board, Tribunal had no jurisdiction in the matter. Therefore, it all comes to whether relief sought was relatable to his post in the parent department or the borrowing corporation. If it was against the later one, Tribunal would assume jurisdiction only

upon a Notification to be issued by Central Government under Section 14(2) of the Act. The employees retention of a lien on a post in the parent department was irrelevant for the purpose. In the present case also, petitioner had not sought any relief in this OA related to his post in the parent department but had questioned his suspension from the post of SDE(Cables) in MTNL which admittedly was not covered the requisite Notification.

7. We, accordingly hold that since Central Government had not issued any notification under Section 14(2) of the Act to apply provisions of sub-section (3) to MTNL, CAT was not vested with any jurisdiction to entertain any petition related to any service dispute in the MTNL.

To the similar effect to the decision of the Bombay High Court in the case of A.R. Patil & Ors. (supra) where the Hon'ble High Court has set aside the decision of the Tribunal whereby the petition of the applicant before the Tribunal against transfer order was passed by BSNL was entertained.

9. The ratio as laid down by the Delhi High Court based on the decision of the Apex Court is squarely applicable in the instant case. Since in this case the Central Government had not issued any notification under Section 14 (2) of the Act to apply provisions of Sub section 3 of MTNL/BSNL, as such, this Tribunal is not vested with any jurisdiction to entertain any petition related to any service dispute in the MTNL/BSNL. Accordingly, this Tribunal has got no jurisdiction to entertain the matter."

3. The ratio as laid down by this Tribunal in the case of P. K. Saha (supra) is squarely applicable in the facts and circumstances of this case. The grievance of the applicant is regarding his transfer by the BSNL authorities from Ajmer District to Gujarat Telecom circle. As already stated above, the grievance of the applicant does not relate to his entitlement to any public post as Member of the Indian Telecom Service Group-A cadre or to the condition of service relating to the Indian Telecom Service Group-A cadre rather the

relief is ~~with~~ connected with his post as Member of the Indian Telecom Service Group-A cadre and independent of service condition thereof. Thus, in view of the law laid down by the Delhi High Court in the case of Ram Gopal Verma (supra) which decision is based on the decision rendered by the Apex Court in the case of M.A. Hai Azami (supra), this Tribunal has got no jurisdiction to entertain this OA as the Central Government had not issued any notification under Section 14(2) of the Administrative Tribunals Act, 1985 to apply the provisions of Sub section 3 to BSNL. Registry is directed to return the Paper Book to the applicant for filing the same before the appropriate forum retaining one copy of the Paper Book.

4. With these observations, the OA is disposed of.

  
(M. L. CHAUHAN)  
JUDICIAL MEMBER

P.C./