

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

19.11.2009

TA 22/2009 (CWP 3979/2002)

Mr. S.K. Jindal, Counsel for applicant.

Mr. T.P. Sharma, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

B.L.
(B.L. KHATRI)
MEMBER(A)

M.L. Chauhan
(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 19th day of November, 2009

TRANSFER APPLICATION NO. 22/2009
IN
(CIVIL WRIT PETITION NO. 3979/2002)

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Lal Chand Saini son of Shri Poori Lal Saini aged about 52 years,
resident of Nainwa Road, Indira colony, Bundi, now a days working as
Telecom Mechanic.

.....APPLICANT

(By Advocate: Mr. S.K. Jindal)

VERSUS

1. The Chairman and Managing Director, Bharat Sanchar Nigam Ltd., Sanchar Bhawan, New Delhi.
2. The Chief General Manager Telecommunications, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
3. Assistant General Manager (TT), Jaipur Office of CGMT, Jaipur.
4. The Telecom District Engineer, Bundi.

.....RESPONDENTS

(By Advocate : Mr. Tej Prakash Sharma)

ORDER (ORAL)

The applicant has filed this TA against the order dated 18.03.2002 whereby the Asstt. Engineer Manager (TT), BSNL, Office of the Chief General Manager Telecommunication, Rajasthan Telecommunication Circle, Jaipur directed the Telecom District Engineer, Bundi to relieve the applicant to his parent Postal Department immediately. It has been brought to our notice that the operation of this order was stayed by the Hon'ble High court till further order vide order dated 11.07.2002 and by virtue of this stay so

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granted by the Hon'ble High court, the applicant has not been repatriated to his Parent Department. Now, the jurisdiction in respect of BSNL employees has been conferred to this Tribunal.

2. Respondents have filed reply. In the reply, the respondents have also annexed the order dated 06.09.2002 whereby the competent authority has approved cancellation of absorption of the applicant in BSNL, the validity of this order is not under challenge before this Tribunal.

3. Since the absorption of the applicant in the BSNL has been cancelled by the competent authority vide order dated 06.09.2002 and the validity & legality is not under challenge before this Tribunal, the learned counsel for the applicant submits that he will file substantive OA thereby challenging the legality and validity of order dated 06.09.2002. Learned counsel for the applicant further submits that this order dated 06.09.2002 has never been served upon the applicant till date and this fact has been mentioned by him in the rejoinder. Learned counsel for the applicant further submits that since the applicant is still continuing in the BSNL Department by virtue of stay granted by the Hon'ble High Court vide its order dated 11.07.2002, the said stay may further be continued for one month so that he can file substantive OA thereby challenging the validity of the order dated 06.09.2002, which order has been based upon the DOT, New Delhi order No, 1-28/2002-SNG dated 23.08.2002.

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4. In view of what has been stated above, we are of the view that ends of justice will be met if the applicant is permitted to file substantive OA thereby challenging the aforesaid two orders whereby the absorption of the applicant in BSNL has been cancelled by the competent authority. The fact that the applicant was pursuing the remedy before the Hon'ble High Court and before this Tribunal shall be taken into consideration while considering the case of the applicant for condonation of delay.

5. In view of what has been stated above, the applicant is permitted to file substantive OA thereby challenging the aforesaid two orders dated ~~13.03.2002~~^{12.03.2002} and 06.09.2002 as well as order dated 18.03.2002 (Annexure A/12) on all permissible grounds. The interim stay granted by the Hon'ble High Court vide order dated 11.07.2002 shall remain operated for further period of one month.

6. With these observations, the TA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ