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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 17.11.2011

O.A. No. 410/2011

Mr. P.N. Jatti, counsel for applicant.
Mr. B.K. Pareek, proxy counsel for
Mr. T.P. Sharma, counsel for respondents.

Learned counsel for the applicant submits that he will be filing rejoinder to the reply during the course of the day with an advance copy of the same to the learned counsel for the respondents.

Put up the matter on 08.12.2011. I.R. to continue till the next date.

Sy

K.S. Rathore

(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

8.12.2011

Mr. P.N. Jatti, Counsel for applicant
Mr. B.K. Pareek, Proxy Counsel for
Mr. T.P. Sharma, Counsel for respondents

Heard. The OA is disposed of by
a separate order

K.S. Rathore
(Justice K.S. Rathore)
M (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 08th day of December, 2011

ORIGINAL APPLICATION No. 410/2011

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER

Mr. R.S. Yadv son of Shri Ram Dev, staff no. /660 by caste Yadav, aged about 41 years, resident of House No. 24 A, Sachivalaya Vihar, RICCO Kante Ke Samne, Mansarovar, Jaipur. Presently working as Sr. TOA (G) in SDO (P) Shyam Nagar, Jaipur O/o PGM, TD, Jaipur.

... Applicant
(By Advocate : Mr. P.N. Jatti)

Versus

1. Union of India through the Chairman, Bharat Sanchar Nigam Ltd., Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecom, Rajasthan Circle, Jaipur.
3. Principal General Manager, Telecom District, BSNL, Jaipur.
4. Sub Divisional Officer (P), Shyam Nagar, Jaipur.

... Respondents
(By Advocate : Mr. B.K. Pareek proxy to Mr. T.P. Sharma)

ORDER (ORAL)

The present OA is directed against the transfer order dated 03.09.2011 (Annexure A/1) on the ground that the respondents have passed the transfer order arbitrary and contrary to the rules and deserves to be quashed and set aside. This Tribunal while issuing the notice on 06.09.2011 passed the interim order in the manner that so far as the applicant is concerned, he may not be relieved pursuant to the impugned order dated 30.09.2011 (Annexure A/1), if he has not been relieved so far.



2. Per contra, learned counsel for the respondents raised the preliminary objection regarding the maintainability of the OA and submitted that the applicant has been transferred and posted from urban area to rural area on the basis of his longest stay in urban area and the same has been passed considering the prevailing guidelines by which the respondents have decided that the persons who are staying in the rural area from long time have been transferred to the rural area considering the request of those Sr. TOA(G)/ Sr. TOA(P), who have completed two years tenure in rural area on the basis of their request and cost and the transfer orders have been issued with the approval of the competent authorities which is not required any interference and the applicant is bound to follow the order of transfer immediately as per the principles of "Rule of Estoppel".

3. Learned counsel for the respondents placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Government of A.P. vs. G. Venkataraman** reported in 2008(9) SCC 345 wherein the Hon'ble Supreme Court has observed that it is surprising that High Court castigated the respondent transferred as lacking bonafides on flimsy and fanciful pleas. The High Court's findings is unfounded and untenable. The legal position regarding interference by the Court in the matter of transfer is too well established. The respondent's transfer neither suffers



from violation of any statutory rules nor can it be described as malafide.

4. Learned counsel for the respondents also referred the case of **Suresh Chand vs. State of Rajasthan** reported in 2010 (3) WLC 678 wherein it has been held that transfer is not judicial or quasi judicial exercise of power.

5. Learned counsel for the respondents further referred the judgment passed by this Tribunal in OA No. 322/2011 dated 15.09.2011 [**J.P. Meena vs. Union of India & Others**] wherein the same controversy was involved and having considered the judgment rendered by the Hon'ble Supreme Court and having considered the BSNL transfer policy, the OA was dismissed with no order as to costs.

6. I have thoroughly considered the material available on record and the judgment as well as policy referred by the respondents and the learned counsel for the applicant. The applicant has been transferred from urban area to rural area (based on the longest stay in Jaipur) in view of the policy decision taken by the respondents and in view of the longest stay at Jaipur to provide chance to the persons who are working in rural area and thus the transfer order has been rightly passed. I have also considered that the transfer order is not challenged on the ground of malafide as no allegation of malafide has been alleged by the



applicant in the OA. The applicant has not challenged the policy decision/guidelines issued by the respondents under which the transfer order has been passed and the transfer order is challenged merely on the ground that his children are studying and in mid session he should not be transferred. Therefore, I find no merit in the order and the impugned transfer order dated 03.09.2011 (Annexure A/1) requires no interference by this Tribunal.

7. Consequently, the OA fails and is hereby dismissed with no order as to costs. However, it is open for the applicant to represent before the respondent for consideration of his case and it is for the respondents to consider the same in accordance with the policy decision but this Tribunal do not wants to issue any order in this regard.



(Justice K.S.Rathore)
Member (J)

AHQ