

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Application No.14/95(in Q.A.215/94)

Date of Order: This the Day of 9th August 1995.

JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
SHRI G.L.SANGLYINE, MEMBER (ADMN)

1. Shri Subir Kumar Roy
C/O Telephone Exchange
Dharmanagar, Tripura ... Applicant.

By Advocate Mr, B.L.Singh, Mrs.S.D.Purkayastha.
Vs.

1. Shri V.P.Sinha
Chief General Manager, Telecom,
N.E.Telecom Circle,
Shillong.

2. Shri K.Sridhara
Chief General Manager,
Assam Telecom Circle, ... Respondents.
Guwahati.

By Advocate Mr.G.Sharma Addl.C.G.S.C.

ORDER.

CHAUDHARI J(VC):

1. Both the respondents have filed reply to the show cause notice. We are sorry to note that both the Chief General Managers have misunderstood the notice that was issued to them. We had directed notice to be issued only to respondent No.2 to show cause as to why action in contempt should not be initiated. That clearly meant that contempt proceeding as such had not been initiated. Both the respondents have assumed that proceedings in contempt were initiated against them and have chosen to describe themselves as the contempers. We therefore make it clear that no contempt proceeding has been initiated against the respondents and we were only at the stage of considering whether such action was required to be initiated or not.

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2. The CGM(Telecom) N.E.Circle, Shillong(respondent No.2) has stated in his reply that in pursuance of the order dated 7-12-94 in the O.A. the question of Rule 38 transfer of the applicant was reconsidered but in view of the information supplied to him by the CGM, Assam Circle it was not possible to accommodate him in the Assam Circle and the applicant was accordingly informed by letter dated 21-7-95 (Annexure 7). The CGM, Assam Circle (respondent No.1) has explained that RSA(TA) Cadre was declared as wasted cadre before the request was received from the applicant in March 1993. The prevailing vacancies in that cadre as well as in Phone Inspector, Wireless Operator and Technician were converted to TTA as per the instructions of Telecom Directorate on restructuring of cadres and that recruitment process having been commenced it was not desirable to entertain the request of the applicant lest it would cause injury to the qualified and selected candidates. It is pointed out that 39 qualified officials are awaiting training and absorption as TTA in Silchar SSA. Hence according to him there were justified administrative reasons for not accepting the request of the applicant when it was made nor can it be accepted in near future as those reasons are still existing.

3. Mrs.Purkayastha the learned counsel for the applicant submits that ^{even so} the respondents are guilty of violating the order in the O.A. for the following reasons:-

- 1) Firstly the application for transfer had been made by the applicant on 23-1-92 and therefore the statement made by the CGM Assam Circle in his reply that the RES(TA) cadre was declared

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wasted before the request was received by him in March 1993 is wrong and thus on an erroneous assumption the request of the applicant has been refused.

- 2) Secondly, the respondents have acted inconsistently with the directions of the DOT New Delhi contained in his letter No.4-3/89/MCG dated 25-6-92 whereunder it was directed as follows:.

"Now cadres like RSA/PI/TA/AEA etc having been declared as wasting cadres and no further recruitment is to be made to the cadres, it has been decided that Rule-38 transfer may be permitted by Heads of Circle concerned in the cadres declared as wasting Cadre."

4. It is a fact that the applicant had applied for transfer on 23-1-92. However what the respondent No.1 has stated is that the request was received by him in March 1993 by which time the cadre had been declared as wasted. That implies that although the application was submitted on 23-1-92 it had reached for consideration by respondent No.1 in March 1993. Since by that time circumstances had changed it cannot be held that the said respondent has acted on an erroneous assumption. Moreover from Annexure D to the O.A. it becomes clear that the applicant had also filed an application for transfer on 8-3-93. The statement of respondent No.1 that he had received the application in March 1993 therefore can also be looked upon as referring to this application. Whatever that might be it is not a sufficient ground to imply wilful disobedience to the order in the O.A.

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5. In so far as the direction of the DOT is ^{concerned} considered it merely permitted the head of the circle to allow the Rule 38 transfer in his discretion. That is the clear implication of the word 'may'. For the reasons explained by the respondents as it appears that there were administrative difficulties in granting the applicants' request for transfer, ~~it~~ cannot be held that the direction of the DOT has been violated.

6. By the order in the O.A. the Chief General Manager concerned was directed to reconsider the request of the applicant for transfer under rule 38 but there was no direction to make the transfer. The respondents having now duly considered the same and thus having complied with the direction in the order no question of non-compliance with that order can survive. We are satisfied from the explanation offered by the respondents that there were administrative difficulties in the way of granting the request of the applicant for transfer as requested in his applications dated 23-1-92 and 8-3-93. It is not possible for us ~~for~~ interfere in that purely administrative matter. We are therefore not satisfied that a case has been disclosed for initiating contempt proceedings against ~~that the~~ respondents.

7. As stated earlier the respondents have misconceived the nature of the present proceeding and the submissions made by respondent No.2 in para 8 of the reply are product of over sensitivity. Similar is the position as regards the submissions in para 4 of the reply of respondent No.1. However, we have taken due note of the same.

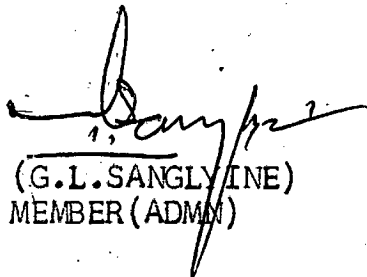
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8. In the result the application for initiating contempt proceedings against the respondents is rejected. This order does not preclude the applicant if so advised to make departmental representation.

Contempt Petition accordingly disposed of.

Copy of the order to be sent to respondent No.1 by hand delivery and respondent No.2 by usual mode. Copy may be furnished to the counsel of the parties.


(G.L. SANGLY) (INE)
MEMBER (ADMIN)


(M.G. CHAUDHARI)
VICE-CHAIRMAN

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