

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

OA No.4310/2016

This the 27<sup>th</sup> day of March, 2017

**Hon'ble Shri Justice Permod Kohli, Chairman**  
**Hon'ble Shri K N Srivastava, Member(A)**

Shri Mukesh Manda (Aged about 47 years)  
R/o C-32, Sector 23  
Noida-UP  
GM (North I and Q Group 'A')

....Applicant

(Through Advocates: Shri A.K. Behera and Shri Manish Garg)

Versus

1. Bharat Sanchar Nigam Limited  
BSNL Bhawan  
1, H.C. Mathur Lane  
New Delhi-110001.  
Through its Chairman-cum-Managing Director
2. Sh. D.N. Sah  
Under Secretary(VM)  
Government of India  
Ministry of Communication  
Department of Communication(VM Section)  
Room No.910, Sanchar Bhawan  
28, Ashoka Raod, New Delhi-1
3. Union of India through Secretary  
Ministry of Communication  
Department of Telecommunication  
Sanchar Bhawan  
28, Ashoka Road  
New Delhi-1.

....Respondents

(Through Advocates: Ms. Anupama Bansal for Res. No.1 and Shri Subhash Gosain for Respondent Nos. 2 and 3)

**Order (oral)****Justice Permod Kohli, Chairman**

In this OA the applicant has assailed orders dated 07.10.2016 and 16.12.2016 [A-1 (Colly)]. Vide order dated 07.10.2016 Department of Telecommunications requested the BSNL for transferring the applicant to a non sensitive post. Vide the impugned order dated 16.12.2016 the applicant has been transferred from the post of GM(North), Inspection and Quality Assurance, New Delhi (Entrustment Charge) to the post of DGM Assam Circle, which has been passed as a consequence of the aforesaid order dated 07.10.2016. Apart from various grounds to challenge the transfer order, one of the ground urged at para 5.13 of the OA is that the applicant was working as Additional GM, whereas he has been transferred to the post of DGM which is punitive and stigmatic in nature. In the rejoinder, it is further stated that the applicant is being posted to a lower post i.e. DGM Assam Circle. During the pendency of this Application, the respondents passed an order dated 09.01.2017 allowing the retention of the applicant at Delhi upto 31.01.2017.

2. The admitted position is that the substantive post held by the applicant is Additional GM whereas by the impugned order he has been transferred to DGM which is lower in rank and status may be emoluments also.

3. It is settled law that a Government servant can be transferred to any post borne on the cadre of the service. He cannot be transferred to a post lower in status or carrying lesser salary/emoluments. Such a transfer becomes punitive in nature and is otherwise also impermissible in law. In the present case, the applicant has been transferred to a lower post vide the impugned order. Thus, without going into other grounds urged in the OA, we set aside the impugned orders dated 07.10.2016 and 16.12.2016 qua the applicant primarily on the ground that he has been transferred to a lower post. However, setting aside of the impugned orders shall not prevent the respondents from reconsidering the matter and passing a fresh order. Thus, OA is disposed of in the above manner. There shall be no order as to costs.

**( K N Srivastava )**  
**Member(A)**

**( Justice Permod Kohli )**  
**Chairman**

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