

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/00208/ 2018
&

M.A.No.233/2018 in O.A.No.021/00208/2018

Date of CAV:20.09.2018.

Date of Order :05.10.2018.

Between :

U.Srinivas, s/o late U.V.Rama Rao,
Aged about 49 yrs, Occ:Sub-Divisional Engineer,
BSNL, Gr.'B', O/o Principal General Manager,
Southern Telecom Region, BSNL Bhavan,
Adarshnagar, Hyderabad-500 063.

...Applicant

And

1. Union of India, rep., by the
Secretary, Dept. Of Telecommunications,
20, Ashoka Road, New Delhi-1.
2. The Bharat Sanchar Nigam Limited,
Rep., by its Chairman-cum-Managing Director,
Bharat Sanchar Bhavan, BSNL Corporate Office,
Harish Chandra Mathur Lane, Janpath,
New Delhi-1.
3. The Chief General Manager,
Southern Telecom Circle (STR),
Guindi, Chennai-600 032. Respondents

Counsel for the Applicant Dr.A.Raghu Kumar,

Counsel for the RespondentsMrs.K.Rajitha, Sr.CGSC
.... Mr.M.C.Jacob, SC for BSNL

ORDER

(As per Hon'ble Mrs.Naini Jayaseelan, Member (Admn.))

The applicant has filed this OA seeking the following relief:

“To call for the records pertaining to the office order No.1-1/2017-Pers.II, dated 27.11.2017 transferring the applicant from Southern Telecom Region to North Eastern Task Force Circle and 2nd respondent order in Lr.No.15-16/2017-Pers.II, dated 19.02.2018 rejecting the representations of the applicant with improper understanding of the orders of this Tribunal, which was communicated to the applicant through 3rd respondent Lr.No.PGMMHD/ADMN-1/2017-18/92 dated 03.03.2018 and quash and set aside the same to the extent of applicant as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India, the Transfer Policy of the respondents dated 05.09.2007 as amended on 07.05.2008 and the rules on the subject matter.”

2. The brief facts of the case are as follows:

The applicant joined the erstwhile Dept. Of Telecommunications as Junior Telecom Officer (JTO) in the year 1995 in the batch of 1992 for AP Circle. He was further promoted to the post of Sub-Divisional Engineer (SDE) on regular basis on 9.10.2004. The Govt. of India established Bharat Sanchar Nigam Limited (BSNL) with effect from 1.10.2000 and the applicant got absorbed into BSNL as per option exercised by him w.e.f. 1.10.2000. The BSNL introduced a Transfer Policy dated 5.9.2007, and vide their Policy dated 7.5.2008 certain amendments were made. The applicant was transferred to North Eastern Task Force (NETF) Circle

from Southern Telecom Region, vide office order No.1-1/2017 Pers-II, dated 27.11.2017.

3. The respondents issued the present impugned office order transferring the applicant from Southern Telecom Region to North Eastern Task Force (NETF) Circle on the ground of accommodating the request transfer of the SDEs working in NETF Circle, who have completed their tenure. The applicant submitted two representations dated 14.12.2017 and 20.12.2017 seeking the indulgence of the Principal Senior General Manager (Personnel), BSNL Corporate Office in respect of the above transfer orders. Later, the applicant's name was struck off from the Enterprise Resource Planning (ERP) on 2.1.2018 without issuing specific relieving orders. The applicant filed OA.No.59/2018 challenging the transfer orders. This Tribunal vide its orders dated 12.1.2018 disposed of the OA granting a stay on the transfer order dated 27.11.2017 till the disposal of the representations of the applicant. However, the 2nd respondent rejected the representations of the applicant, vide order dated 19.02.2018. Hence, the present OA.

4. The learned counsel for the Applicant states that since his name was struck off from the ERP, his salary has not been paid since January 2018.

5. The respondents filed M.A.No.233/2018 to vacate the interim order dated 08.03.2018 stating that the applicant was relieved directly from the Corporate Office through ERP system and was intimated through the

official internet site of the BSNL along with other Executives on 2.1.2018.

The said action of the respondents was accepted by the applicant and he did not attend the office on duty from 3.1.2018 onwards based on the relief till date. It is the contention of the respondents that even after the Tribunal's order, neither the applicant reported for duty nor was any leave sanctioned. Hence, he is not entitled for any pay during the period since his absence is treated as no work no pay. Further, the present transfer of adjustment of manpower to various locations has been done more than a decade as per the transfer policy, as such the stay granted by this Tribunal on the transfer of the applicant is liable to be vacated.

6. In the meantime, the applicant has also filed Contempt Petition No.34/2018 seeking to punish the contemnors for committing an act of contempt of court in not implementing the orders of this Tribunal dated 8.3.2018.

7. This Tribunal while issuing notice in Form No.1 to the respondent no.3 directed the Respondent No.3 to appear before this Tribunal on the next date of hearing and posted the CP along with MA and OA for hearing.

8. Challenging the orders of this Tribunal in CP, the respondents filed a Writ Petition No.27452/2018 before the Hon'ble High Court at Hyderabad.

The Hon'ble High Court, vide order dated 03.08.2018 partly allowed the Writ Petition observing as follows:

“Since the vacate stay petition filed by the petitioners is pending before the Tribunal, we hereby set aside the appearance of the 2nd petitioner and direct the Tribunal to decide vacate stay petition in M.A.No.233/2018 by passing necessary orders.”

9. Since the applicant is similarly placed to the applicants in batch of OAs viz., O.A.No.272/2018, O.A.No.613/2017, O.A.No.192/2018, O.A.No.193/2018, O.A.No.341/2018 and O.A.No.342/2018, where this Tribunal passed specific orders dismissing the above OAs and allowing the vacate stay petitions filed by the respondents viz., M.A.No.251/2017 in O.A.No.613/2017, M.a.No.275/2018 in O.A.No.192/2018 and M.A.No.277/2018 in O.A.No.193/2018, the present OA with regard to transfer is dismissed. However, since it is an admitted fact that the applicant has not been paid salary from January 2018, as his name was not reverted back in the ERP. Therefore, the respondents are hereby directed to pay his salary from January 2018 by restoring his name in the ERP. The stay orders granted are vacated. The M.A.No.233/2018 for vacate stay filed by the respondents is allowed accordingly. No order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated: this the 5th day of October, 2018

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