



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 350/1454 /2018

Date of Order: 25.09.2018

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Jagadish Panda, aged about 52 years,
S/o. Late Uma Charan Panda, presently
working as Accounts Officer (TRA),
O/o. GMTD, Unit-9, Bhubaneswar,
PIN – 751 022.

... Applicant.

-versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented through its Chairman-Cum-
Managing Director, at – BSNL Bhawan,
Harischandra Mathur Lane, Janapath,
New Delhi – 110 011.
2. The Chief General Manager, Odisha Circle
BSNL Bhawan, Ashok Nagar, Unit – II,
Bhubaneswar, PIN – 751 009.
3. The Principal General Manager,
BSNL, Telecom District,
Door Sanchar Bhawan, Unit-IX
Bhubaneswar – 751 022.
4. The Internal Finance Advisor,
O/o the C.G.M, BSNL, Odisha Circle,
Bhubaneswar – 751 009.
5. Deputy Genial Manager (F)/Circle IFA,
O/o. the CGM BSNL, Odisha Circle,
Bhubaneswar PIN– 751 009.

.....Respondents.

For the Applicant : Mr. S.K. Ojha, Counsel

For the Respondents : None

ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Despite service none appears on behalf of the respondents.

2. Heard Id. Counsel for applicant at length.

3. The applicant has assailed a transfer order dated 31.07.2018, vide Annexure A-5 to the O.A., whereby and whereunder the applicant is sought to be transferred from PGMTD, Bhubaneswar to TDM, Baripada against vacant post.

The challenge to the transfer order is on the following grounds:

(i) It has not been routed through the Placement Committee as required to be done in the wake of Hon'ble Apex Court's decision in WP(C) 82/2011, dated 31.10.2013 on the subject and hence bad;

(ii) The transfer has been ordered within 2 months from his promotion.

(iii) It is in total non-consideration of his prayer for retention on spouse ground in terms of DOPT circular dated 30.09.2009;

and since his wife is serving as Sr. Divisional Engineer at the same place the applicant would mandatorily deserve posting at the same place in terms of the said DOPT Circular and

That perimateria provisions that exists under BSNL transfer policy. In support General Principles at para 6 of Transfer Policy dated 07.05.2008 which contains similar provision of retention on spouse ground, has been placed.

(iv) Adoption of a pick and choose policy, in as much as persons with longer stay, namely, Mrs. Jyostna Das, working as AO and posted at Bhubaneswar since 34 years, Shri Shyamsunder Behera, working as AO and posted since 27

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years at Bhubaneswar and Shri K. C. Chowdhury, working as AO and posted since 17 years at Bhubaneswar, have not been disturbed.

(v) Absence of administrative exigency to transfer the applicant out of Bhubaneswar, since such transfer has been ordered against a vacant post meaning thereby he would be displacing none.

(vi) Mid term transfer: As per para 6(b), the transfer orders are required to be issued during the months of March/April of the year but in the instant case, it is made in August, therefore it violates transfer policy.

(vii) No transparency is maintained while ordering such transfer.

4. Ld. Counsel for applicant would submit that the applicant has already preferred a representation, dated 14.09.2018, to the Chief General Manager, BSNL, Odisha Circle, Bhubaneswar and his earlier representation has already been recommended for consideration by the Principal General Manager to the Internal Financial Advisor, BSNL, Bhubaneswar, as evident from Annexure A-9 to the OA.

5. Ld. Counsel for applicant would therefore seek consideration of the representation of the applicant.

6. In my considered opinion it should be directed to be considered since the balance of convenience is tilted in favour of the applicant due to the grounds as enumerated hereinabove.

7. Therefore, the OA is disposed of with a direction upon Chief General Manager, BSNL, Odisha Circle, Bhubaneswar, the respondent no. 2 herein, to consider the representation of the applicant in accordance with law for his retention on spouse ground or any other ground as enumerated hereinabove or are highlighted in the representation.

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8. Let a detailed reasoned and speaking order be issued on the same within a period of 4 weeks from the date of receipt of a copy of this order.
9. Till such time, the status quo in regard to the applicant be maintained.
10. Accordingly, OA would stand disposed of. No costs.
11. A copy of this order along with the paper book be transmitted to the respondent nos. 2 & 3 by the Registry through Speed Post for which Id. Counsel for applicant shall deposit the costs within one week.

Bidisha Banerjee
(Bidisha Banerjee)
Member (J)

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