

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.340/2018

Date of Decision: 4th May, 2018

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)

Prabhakar Waman Adake
Working as Telecom Technician
in the office of SDE (GEN) GMT
Nashik - 422 002.
Residing at House No.41,
Sukapur Peth, Karanjkar Galli,
Bhagur, Nashik - 422 502 ... **Applicant**

(By Advocate Ms. Priyanka Mehndiratta)

VERSUS

1. The General Manager
Nashik Telecom District
Sanchar Bhavan
Bharat Ratna Sir Vishweshwaraiya Marg
Nashik - 422 002.
2. The Assistant General Manager
(HR/Admn)
O/o General Manager, Telecom
Nashik - 422 002.
3. Sh Borse P.U.
Working under SDE
(Internal and Customer Service Centre)
Sinnar, Dist. Nashik
- 422 103. ... **Respondents**

ORDER (ORAL)

PER: SHRI ARVIND J. ROHEE, MEMBER (J)

Today Division Bench is not available,
Hence the matter is taken up before Single
Bench for Admission, on urgent circulation.

2. Heard Ms. Priyanka Mehendiratta, learned Advocate for the applicant. I have carefully perused the case record.

3. The applicant is presently working as Telecom Technician in the office of Sub Divisional Engineer (GEN) under General Manager Telecom, Nashik. He has come up with the grievance regarding the impugned order dated 24.04.2018 (*Annexure A-1*) issued by the respondents by which he has been transferred in the same capacity to Rajaramnager in Dindori Tahsil of Nashik District. The impugned order further states that the private respondent No.3 - Shri P.U. Borse has been transferred vice the applicant.

4. In this OA, the following reliefs are sought:-

"8(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the impugned order dated 24.04.2018 qua the applicant.

(b) The respondent No.3 may be restrained from joining in place of the applicant.

(c) Costs of the application be provided for.

(d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

5. Interim relief to stay the effect, implementation and operation of the impugned order is also sought.

6. After hearing the learned Advocate for the applicant and on perusal of the record, it transpires that the applicant, before issuance of the impugned transfer order, has submitted a representation dated 29.01.2018 (Annexure A-3) to delete his name from the list of officials who are shown as due for transfer. However, it appears that it was not considered, since he has been transferred by the impugned order. After passing of the impugned order, the applicant has not submitted any representation to the respondent No.1 for cancellation/modification of the impugned order by raising the grounds as stated in the OA namely violation of the provisions of the transfer policy.

7. In the impugned order at the bottom it is specifically stated that "The controlling officers of Nashik urban and Malegaon should advise to relieve the staff posted to tenure places on or before 26.04.2018 A/N so that

they can join on 27.04.2018 to avoid further complications in rural stay/cut off date while considering rural to urban transfers in future".

8. It is obvious that the private respondent No.3 has been shifted from rural to urban area in place of the applicant. However, learned Advocate for the applicant, on instructions received, submitted that the applicant is yet to be relieved and consequently private respondent No.3 has not joined in his place,

9. Considering the peculiar facts of the case, this Tribunal is of the view that the OA can be disposed of by issuing appropriate directions in the matter.

10. In view of above, since representation has not been submitted and in order to avoid future delay in the matter, the contention of the learned Advocate for the Applicant that this OA itself be treated as the applicant's representation for cancellation/modification of the impugned transfer order is accepted.

11. Respondent No.1 is, therefore, directed to consider the present OA alongwith

its annexures as the representation of the applicant for cancellation/modification of the impugned transfer order dated 24.04.2018, on the grounds stated therein and pass a reasoned and speaking order, thereon in accordance with law within a period of four weeks from today.

12. The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum, in case his grievance still persists.

13. In the meantime, the respondent Nos.1 and 2 are directed to not to relieve the applicant from the present post, if not relieved earlier. In other words, in case the relieving order is already issued, then this order will have no effect and the applicant will be liable to face the consequences of failing to join at transferred station on relieving from present post.

14. The OA stands disposed of with the aforesaid directions at the admission stage itself, without issuing notice to the respondents and without making any comments

on the merits of the claim.

15. Registry is directed to forward certified copy of the order alongwith one set of OA and annexures enclosed therewith to the respondent No.1 for taking appropriate steps in the matter as directed above.

Dasti.

(A.J. Rohee)
Member (J)

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