

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
BENCH, ALLAHABAD

(This the 04<sup>th</sup> Day of April 2019)

**Hon'ble Mr. Rakesh Sagar Jain, Member (J)**

Original Application No.330/463 of 2018  
(U/S 19, Administrative Tribunals Act, 1985)

Shesh Narain Tripathi,  
S/o Shri Jagannath Tripathi,  
Permanent R/o Village – Narayanpur,  
P.O.-Hetta Patti, Tehsil-Phulpur,  
District-Allahabad-221 507.  
Presently posted as Telecom Mechanic,  
B.S.N.L., BTS Mobile Tower-Bahedi,  
(Roshanpur), P.O. - Bhagatpur,  
District – Moradabad-244 402 (U.P.)

..... Applicant

By Advocate: Shri Rakesh Verma

Versus

1. Chairman-cum-Managing Director,  
Bharat Sanchar Nigam Ltd. Corporate Officer,  
Bharat Sanchar Sadan, New Delhi – 110001.
2. Chief General Manager (Telecom),  
Bharat Sanchar Nigam Ltd.,  
U.P. West Circle,  
Office of the General Manager (Telecom),  
Meerut.
3. General Manager, Telecom Bharat Sanchar Nigam Ltd.,  
Officer of the General Manager (Telecom),  
Moradabad – 244 001.
4. Sub Divisional Engineer,  
Bharat Sanchar Nigam Ltd.,  
Office of Sub Divisional Engineer,  
Thakurdwara, District – Moradabad.

..... Respondents

By Advocate: Shri R.C. Shukla

ORDER

1. The present O.A. has been filed by applicant Shesh Narain Tripathi under Section 19 of the Administrative Tribunals Act seeking the following relief(s):

- i) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 15.07.2017 passed by the respondent No. 4 to the extent it treat the petitioner unauthorizedly absent from the duty during the period from November, 2016 onwards (Annexure-A-1 to compilation No. 'I' of this petition.
- ii) To issue a writ, order or direction in the nature of Mandamus directing the Respondents to pay the petitioner full pay and allowances for the period from November, 2016 till 15.03.2018 holding him as on duty at Microwave Building, Telecom, Nagalia, Thakurdwara with arrears thereof, within a period as may be fixed by this Hon'ble Tribunal.
- iii) To issue a writ, order or direction in the nature of ad-interim Mandamus directing the respondents to immediately start payment of monthly pay and allowances to the petitioner with effect from 16.03.2018 onwards with arrears thereof forthwith i.e. the date when the petitioner has admittedly joined at the new place of posting i.e. Mobile BTS Centre, Bahedi (Roshanpur), Thakurdwara and to continue to pay the same month to month to the petitioner regularly in future.

2. Case of applicant is that he was posted as Telecom Mechanic in Microwave Telecom Centre, Thakurdwara. Respondent No. 4 without holding any charge. Vide order dated 13.10.2016 (Annexure A4) transferred the applicant from Microwave building, Nagalia to Mobile BTS Centre, Bahedi (Roshanpur) with specific

instruction to hand over charge Tulsi Ram, T.T., Thakurdwara and then join at Bahedi and submit joining information to the office. Since, applicant did not hold any charge and being fearful that he may invite a charge sheet if he moves without handing over charge, applicant did not leave Nagalia to Mobile BTS Centre, Bahedi. He gave the information to respondent No. 4 of not holding charge and not leaving Nagalia till next order vide letter dated 18.10.2016. Applicant received no response and he did not join his new place of posting. Respondents stopped his pay from November 2016 whereupon applicant submitted a representation dated 06.04.2017 to respondent No. 2 through speed post. Applicant has given details of charge sheet against him on the ground that he had lodged complaints of corruption against some officers. His representation dated 18.10.2016 and 06.04.2017 was rejected by respondent No. 4 vide impugned order dated 15.07.2017 (Annexure-A1) treating the applicant to be on unauthorised absence from duty since November 2016, to join his new place of posting and file papers to get the intervening period regularised so that his pay etc can be released. Hence the present O.A.

3. In the counter affidavit, respondents have taken the stand that applicant remained absent from duty from 13.10.2016 to 15.03.2018 and therefore, his claim for pay etc will be settled when the applicant submits leave case/reasons for unauthorised

absence though he is getting his pay etc from 16.03.2018 when he joined his place of posting at Bahedi. It is also averred that on receiving the information of joining at the transferred station, applicant was asked to explain the reason for joining late at transferred place by letters dated 05.04.2018, 28.04.2018 and 17.05.2018 for submitting reasons for delay in joining but applicant is yet to submit his reply so far.

4. Applicant filed rejoinder affidavit wherein he reiterated the pleas raised by him in the O.A. and controverted the stand of respondents that he did not hand over the charge of his post at Nagolia and remained on unauthorized absence from duty.
5. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record as well as the written arguments filed by applicant. Both the learned counsels have reiterated the pleas raised by them in their respective pleading.
6. The question arises whether applicant is entitled to salary etc. from 13.10.2016 to 15.03.2018. Each side taking a contrary position on the question as to whether applicant was on unauthorized absence from duty or not. In this regard, the admitted position is that the question as to whether the applicant was on unauthorized absence from duty is a dispute between the parties is yet to be settled. Respondents have sought reasons etc. from applicant for his absence from his new place of posting at

Bahedi. Applicant is yet to respond to the impugned letter as to whether he was on unauthorized absence from duty or not and submit his case to the respondents for them to take necessary action. In these circumstances, I am of the opinion, that no ground has been made out by the applicant, at this stage, to file the O.A. and is not entitled to the relief of pay etc from 01.11.2016 to 16.03.2018, more so, when the applicant is yet to file documents/reply etc. in support of his reasons for delay in joining his new place of posting at Bahedi. Accordingly, O.A. is dismissed. No order as to costs.

**[Rakesh Sagar Jain]**  
**Member-J**

*/Shashi/*