

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**O.A. No. 267/2017
M.A. No. 546/2017**

Reserved on: 05.09.2019
Pronounced on: 12.09.2019

**Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhyaya, Member (A)**

Abdul Qayyum Ansari S/o Mohd. Ibrahim, aged 56 years, B/C Muslim, R/o 2-Dh-14, Vigyan Vihar Scheme, Kota (Raj.), presently working as Junior Telecom Officer, Kunhadi Exchange, Kota (Raj.). Gr. 'C'.

...Applicant.

(By Advocate: Shri Sudhir Yadav)

Versus

1. Principal Secretary, Ministry of Telecom, Sanchar Bhawan, Ashoka Marg, New Delhi (**deleted vide order dated 12.04.2018**)
2. Bharat Sanchar Nigam Limited, New Delhi through its Chief Managing Director, 4th Floor Bharat Sanchar Bhawan, Janpath, New Delhi.
3. The Chief General Manager, Bharat Sanchar Nigam Limited, Sardar Patel Marg, Jaipur.
4. The Assistant General Manager, Bharat Sanchar Nigam Limited, Sardar Patel Marg, Jaipur.
5. General Manager, Bharat Sanchar Nigam Limited, Vigyan Nagar Scheme, Kota.
6. Smt. Seema Garg, presently working as JTO through General Manager, Bharat Sanchar Nigam Limited, Vigyan Nagar Scheme, Kota.

...Respondents.

(By Advocate: Shri R.P.Singh for Shri Neeraj Batra for R-2 to R-4 and Shri T.C.Vyas for R-5)

(2)

ORDER**Per: A.Mukhopadhyaya, Member (A):**

Vide this Original Application, (OA), the applicant who is a Junior Telecom Officer, (JTO), with the respondent organisation, (BSNL), has challenged his transfer at company cost from Kota to Bhilwara vide order dated 21.04.2017; (Annexure A/1). The applicant states that the respondents at their own level issued the stay particulars of various JTOs, (Telecom), officials working under the Rajasthan Telecom Circle vide their letter/circular dated 30.03.2017; (Annexure A/2). He points out that as per this document in which he figures at Sl.No.512, there were as many as 6 JTOs, (from Sl.No.506 to Sl.No.511 both inclusive), who had a longer stay at Kota as compared to him. He avers that of these 6 people, while others have either been transferred or retained at Kota as per the respondents' own transfer policy, (Annexure A/4), respondent No.6, Smt. Seema Garg who figures at Sl.No.508 and has a longer period of stay in Kota as compared to the applicant should have been transferred out of Kota instead of him. He further avers that the transfer policy of the respondents dated 07.05.2008, (Annexure A/4), specifically stipulates at para 11 (a) item 4 that his Station/SSA tenure can be upto 10 years. He states that while he has completed only 7 years 8 months at this station, respondent No.6 has completed over 14 years at the same station. He also states that as per the additional guidelines

(3)

at para 11 (k) applicable to officials like him upto STS level, transfers involving change of station should normally be avoided after the official reaches 56 years of age and therefore his transfer also falls foul of this guideline. The applicant contends that since the impugned transfer has been made in violation of the respondents' own policy in the matter, he has approached this Tribunal seeking the following relief:-

8. Relief:

This Original Application be allowed by an appropriate order or direction. The impugned order dated 21.04.2017 (Annex.A/1) passed by respondent No.4 by which the applicant has been transferred from Kota SSA to Bhilwara be quashed and set aside qua the applicant and the respondents be directed to permit the applicant to work at Kota SSA on the post of Junior Telecom Officer as it is in the interest of justice.

Any other relief, which is deemed just and proper under the fact and circumstances be granted in favour of the applicant.

9. Interim Prayer:

During the pendency of the Original Application, the effect and operation of the impugned transfer Annex-1 order dated 21.04.2017 be stayed qua the applicant in the interest of justice.

2. Vide its interim order dated 04.05.2017, this Tribunal directed the respondents not to relieve the applicant from his

(4)

present place of posting in case he had already not been relieved.

The order of the Tribunal also went on to stipulate as under:

However, if the facts are otherwise than as brought by the counsel for the applicant or as averred in the OA, the respondents would be free to move for vacation/modification of interim relief.

3. In their reply, the official respondents aver that the true facts relating to the period of stay of the applicant and respondent No.6 have not been correctly portrayed. They state, (para 4.2 of reply to OA refers), that Annexure A/2 as produced by the applicant does not show the details of the stay particulars of respondent No.6, vis-a-vis Kota Station, which are as follows:

- a) Respondent No.6 was transferred to Chittorgarh on deputation as TTA (Now JE) from 22.05.2003 to 04.06.2008.**
- b) Respondent No.6 served at Kota from 05.06.2008 to 30.03.2014 as TTA (Now JE) and from 31.03.2014 to 31.12.2014 as JTO.**
- c) Respondent No.6 again transferred to Barmer on 09.12.2014 on deputation/she served there from 01.01.2015 to 17.06.2016.**

4. The respondents thus state that a perusal of the career history of respondent No.6 after 17.06.2016 as placed at Annexure R/1 shows that she joined at Kota SSA on 20.06.2016 after her transfer from Barmer SSA and therefore she had not completed even the minimum tenure of three years at a location as stipulated vide para 11(b) of the BSNL Employee Transfer

(5)

Policy at the time the impugned order was issued in 2017. They aver that the career history of the applicant on the other hand, (Annexure R/5), shows that he remained posted at Kota throughout his service career except for a period of three years with effect from 29.03.2006 to 02.09.2009, i.e. out of a total service period of 31 years, he has been posted at Kota for 28 years. Respondent No.6 however has worked for 5 years at Chittorgarh SSA and one and a half years at Barmer SSA out of her total 14 years of service. Thus, respondent No.6 has worked for only around 8 years at Kota SSA. The respondents also aver, (para 4.4 of reply to the OA refers), that they have adhered to Section A Rule 6(g) of their transfer policy in that since the spouse, (husband), of respondent No.6 is also an employee serving with the respondents, they were required to be posted as far as possible, within the constraints of administrative feasibility, at the same station. They contend that a representation dated 22.03.2017, (Annexure R/3), received from respondent No.6 pointing out this fact was considered while deciding to retain her at Kota SSA as her husband was serving as JTO in Kota SSA. They further point out that respondent No.6 has indicated in her aforementioned representation that she has two daughters of age 6 years and 11 years who are studying at Kota and this fact was also considered while taking the decision in question.

(6)

5. Learned counsels for the applicant and the respondents were heard and the material available on record was perused.

6. While the learned counsel for the applicant reiterated the points and arguments made in the OA, learned counsel for the respondents also pointed out that a consideration of the respondents' transfer policy, (Annexure A/4), in its totality makes it clear that while general guidelines are laid down in the policy, these are not mandatory in nature and in particular, as per para 3 of the policy, "**the management has the right to move or not to move employee(s) from one post/job to another, to different locations, to different shifts, temporarily or permanently, as per business requirements and special needs.**"

7. As regards the facts of the case, given that the specific reply of the official respondents, (supported by the reply given by private respondent No.6), has not been contradicted or countered by the applicant, it stands admitted that respondent No.6 has spent around 6 years of her total career of 14 years at Kota SSA as opposed to the applicant's 28 years of stay at the station out of a total service period of 31 years, (as per the respondents), or at least 7 years and 8 months at the station presently; (as per his own admission). Thus it becomes clear that computed in either manner, respondent No.6 has had a much shorter period of stay

(7)

at Kota as compared to the applicant. Not only this, the respondents appear to have given due weightage to the other elements of their transfer policy, (which has not been referred to by the applicant), such as the fact that respondent No.6 and her spouse who are both employees of the respondent organisation are required to be posted together as far as possible.

8. Given the foregoing position, it is our finding that the impugned transfer order issued in 2017, (Annexure A/1), is not violative of the respondents' transfer policy; (Annexure A/4) in any substantive manner. In any case, the fact that this policy itself, (as clearly shown by para-3 as reproduced earlier), is not mandatory but merely advisory and enabling in nature has not been contested or countered by the applicant in any meaningful manner. Thus, there appears to be no ground whatsoever justifying any intervention with the impugned transfer order of 21.04.2017; (Annexure A/1). Accordingly, the O.A. is dismissed.

9. In view of the order passed in the OA, MA No.546/2017 for vacation of the interim order granted on 04.05.2017 is rendered infructuous and the same is disposed of accordingly.

10. There shall be no order on costs.

(A.Mukhopadhyaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

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