

Central Administrative Tribunal
Principal Bench

O.A.No.1101/99

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of May, 1999

Shri C.P. Sharma,
S/o Late Shri Bhagwan Sahai,
F-37 Jagatpuri, Street No. 12,
Parwana Road,
Delhi-110 0051.

Applicant

(By Advocate: Dr. M.P. Raju)

-Versus-

1. Union of India,
through the Secretary,
Ministry of Communications,
Department of Post & Telegraph,
Dak Bhawan, New Delhi-110 001.

2. Chief Post Master General,
Delhi Circle, Meghdoot Bhawan,
New Delhi-110 001.

3. Chief Post Master,
Indraprastha Head Office,
New Delhi-110 002.

Respondents

O R D E R (Oral)

The applicant is aggrieved by the order of the respondents in treating the transfer of the applicant dated 5.5.1998, as a transfer for five years under Rule 37 of the Postal Manual Volume-IV. On that basis he has come before the Tribunal seeking a direction to the respondents not to give effect to the transfer order dated 5.5.1998 in violation of the orders of the Tribunal dated 19.2.1999 in OA No.1090/98 (Annexure VII).

2. I have heard Shri M.P.Raju, learned counsel. The applicant while working as Assistant Post Master at Indraprastha Head Post Office, was transferred to New Delhi West Postal Division, Naraina, New Delhi vide impugned order dated 5.5.1998. The earlier OA No.1090/98 was disposed of with a direction that "though the order

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of transfer will stay, the respondents will specify the period for which it would remain operative. Thereafter, the applicant would be transferred to his parent division."

3. The learned counsel for the applicant has contended that Tribunal in its order dated 19.2.1999 had held that this transfer can only be for a limited period, i.e. till the completion of enquiries relating to the allegation against the applicant. The learned counsel for the applicant submits that during the course of the pendency of the earlier OA the relevant enquiries had been completed and therefore in terms of the interpretation given by the Tribunal in its order in OA No.1090/98, the very basis of transfer order had disappeared and therefore the respondents could not now issue any order to relieve the applicant from his present place of posting, i.e., Indraprastha Head Post Office.

4. I find that the question of transfer of the applicant by the impugned orders dated 5.5.1998 was the main issue in the earlier OA No.1090/98. The impugned orders were stayed by the Tribunal during the hearing and now it is contended that though the relief sought for by the applicant for cancellation of the transfer order was not granted by the Tribunal, the applicant is nevertheless entitled to stay on in terms of the time frame indicated by the Tribunal for the transfer order to remain operative. I am unable to agree with this contention of the applicant. Since the issue of transfer has already been decided in OA No.1090/98 the present OA is in my view barred by res-judicata. Further the applicant cannot be allowed to obtain the relief

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sought for in earlier OA which was refused to him indirectly now by pleading that through non-compliance the order of transfer has now been rendered infructuous. In my view he can have a frssh cause of action only after he has complied with the impugned order of transfer.

5. In view of the above discussion, the OA is dismissed at the admission stage itself as barred by resjudicata..

~~R.K.Ahooja~~
(R.K.Ahooja)
Member(A)

/rao/