

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. No. O.A 1520/88

Date of Decision:- 5.4.89.

Shri Parma Nand Sharma

...

Applicant

Vs.

Union of India & Ors

...

Respondents

CORAM:- Hon'ble Shri B.C.Mathur, Vice Chairman.

For the applicant

Ms. Santosh Kalra, Advocate

For the Respondents 1,2,& 3

Shri K.D. Mittal Advocate

For the respondent No.4

Shri Sant Lal, Advocate

This is an application under Section 19 of the Administrative Tribunals Act, 1985 against impugned order No. B-1/Genl/PA/88 dated 22.7.88 passed by the Senior Supdt. of Post Offices, Moradabad Division (Respondent No. 3) in compliance with the instructions of Respondent No. 2 transferring the applicant in violation of rules of transfer with the intention to accommodate Respondent No. 4 in his place.

2. The applicant is posted as Sub Post Master, Municipal Board, TSO (Rampur) with effect from 22.7.88. The applicant was transferred from SPM Mestanganj to SPM Municipal Board, S.O. Rampur on 21.4.87 after completing his tenure of four years. The applicant was transferred within 11 months of his posting from SPM, Municipal Board, TSO (Rampur) to SPM C & M Stores, SO Rampur vide order No. B-1/Genl/P.A5/TP/87 dated 7.3.88. From 7.3.88, Respondent No. 4 was transferred to SPM, Municipal Board TSO (Rampur) after completing his prescribed tenure from

contd....

Rampur Secretariat Post Office. Respondent No. 4, however, did not join the said station and went on leave as that was not a station of his choice. Respondent No. 4 is a convenor of the Bhartiya Union, Moradabad and used his influence to get posting of his choice of SPM, J.Jwala Nagar, Rampur, disturbing one Shri G.M. Saxena, who had not completed his tenure in J.Jwala Nagar Post Office, but could not succeed. Respondent No. 4 then again exerted pressure to accede to his individual request of not sending him to Municipal Board, P.O. Rampur and obtained the impugned order posting him to SPM, C&M Stores, P.O. (Rampur), in place of the applicant who was transferred to SPM, Municipal Board, P.O. (Rampur).

3. The case of the applicant is that the impugned order was not passed for any administrative purposes and the Respondents Nos 1 to 3 have ordinarily no power to transfer an employee from one place to another before expiry of the prescribed tenure of four years and that the impugned order has been passed under pressure and recommendations of the Union contrary to the prescribed procedure. The applicant has been put to a great inconvenience by shifting from CM Stores to Municipal Board Rampur in the mid session of his children's education and also when the applicant is on the verge of retirement. The transfer has been done within four months of his posting at CM Stores merely to accommodate Respondent No. 4.

4. The learned counsel for respondents 1 to 3 stated that the applicant has already joined at the SPM, Municipal Board, and the application, therefore, does not survive. Since the order has already been implemented, the relief has become inoperative. He also said that this is a transfer which does not affect the applicant in any way as the place of duty remains Rampur and the distance of the Post Office from his residence is only about 2 K.Ms.

5. Shri Sant Lal, counsel for the respondent No. 4, had raised

an objection that the Principal Bench had no jurisdiction to hear this case as the cause of action took place in Utter Pradesh. This point has already been decided by the Hon'ble Chairman, who has directed that the case may be decided at Principal Bench.

6. Learned counsel for the applicant stated that applicant had been transferred to Post Office C&M Stores at his own request and he could not be transferred within a period of four months to accommodate the respondent No. 4. Respondent No. 4 had been accommodated at Jwala Nagar post office which was his second choice, since Shri. Saxena who was posted there made a representation against his transfer from Jwala Nagar Post Office and requested for retention at Jwala Nagar. Respondent No. 4 could not join at Jwala Nagar. The learned counsel for the respondents No. 1 to 3 Shri K.C. Mittal stated that since the applicant has already joined and no cause of action survives, prayer cannot be accepted and it would be a futile exercise. He also stated that transfer does not affect the applicant adversely in any way. His place of posting is only 2 Kms. away from his residence. Shri Sant Lal stated that Rule 38 of P & T Manual quoted by the applicant is out of context as it deals with the transfer from one unit to another and from one station to another. In this case this rule does not apply as transfers are within the same unit and the same station. He stated that the applicant has given an impression as if he is being transferred from one station to another whereas the transfer is within Rampur city. It was stated on behalf of the applicant that the orders posting respondent No. 4 were not made by the Competent Authority but by his Superior Officer. The transfer order was made under pressure of Union and as this is to accommodate respondent No. 4, the transfer should be held void.

7. Shri Sant Lal, advocate for respondent No. 4 said that under Rule 117 of the P & T Manual an employee can make a petition to a higher authority. His transfer to post office C & M Stores was in consideration to such a petition. Director, Postal Services had considered the representation of the Respondent No. 4 and also considered the representation of Sh. Saxena who was posted at

Jwala Nagar. He also said that post-offices are classified as Class I, II and III depending on whether they are manned by 1, 2 and 3 persons. Respondent No. 4 is senior to the applicant and has been incharge of the Post Office of Higher category. From this point of view he wanted his posting to C & M Stores which was allowed by respondent No. 2 who as Superior Officer was competent to pass orders on any representation.

8. I have examined the pleadings and also heard the advocates for the applicant and respondents. In this case the applicant is not suffering in any way because of the transfer order from C&M Stores. He is not required to change his residence and station of posting also remains at Rampur. It may be stated that he may have to travel somewhat a longer distance within the same city, but these are matters which do not require interference by Court. It has not been established that the transfer was made because of ^{any} ~~the~~ pressure but it appears that respondent No. 4 was posted to C&M Stores because he was earlier incharge of a post office which was manned by more than two persons. I am not convinced that the applicant is adversely affected in any way as he remains at the same station and continues to draw the same salary. It should be left to the respondents to decide where they want to utilise the service of an officer specially when the postings are within the same station. It also does not affect the studies of the children, as mentioned by the applicant. The applicant has not been able to establish how he suffers by this transfer. If it is only a matter of some inconvenience or feelings, Courts need not interfere when the transfer has been ordered by a superior authority after considering various representations in the matter. There appears to be no malafide or arbitrariness on the part of the respondents. Under the circumstances, the applicant is rejected. There will be no order as to costs.


(B.C. MATHUR)
VICE CHAIRMAN