

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2098/2004

New Delhi this the 3rd day of August, 2005.

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Hon'ble Shri Shanker Raju, Member(J)

1. Ms. Lata Chaudhary,
W/o Sh. K.S. Chaudhary,
R/o A-401, Pavitra Apptt.,
Vasundhra Enclave,
Delhi-96.
2. Sh. Makhdoom,
S/o late Sh. Badal Khan,
R/o Adarsh Colony,
Bihari Pura, Vijay Nagar,
Ghaziabad(UP).
3. Sh. Bhavindra Kumar Sharma,
S/o Sh. Ram Bir Sharma,
R/o House No. 789, Street No.9,
Bhim Nagar, Ghaziabad.
4. Sh. Satish Chand Sharma,
S/o Sh. Chandra Kiran Sharma,
R/o C-6/3, Sector-31,
P&T Colony, Noida.
5. Sh. T.R. Yadav,
S/o Sh. B.P. Yadav,
R/o H.No. 787, Street No.8,
Bhim Nagar, Ghaziabad.
6. Sh. Shiv Raj Singh Tyagi,
S/o Sh. Trilok Chand Tyagi,
R/o Vill & P.O. Morta,
Ghaziabad,UP.

..... Applicants

(through Sh. D.S. Choudhary, Advocate)

Versus

1. Union of India through
the Director General of Posts,
Dak Bhawan, Parliament Street,
New Delhi-1.
2. The Chief Posts Master General
U.P. Circle, Lucknow.
3. The Posts Master General,
Bareilly-Region, Bareilly.

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4. Senior Superintendent of Post Office,
Ghaziabad-Division,
Ghaziabad. Respondents

(through Sh. S.M. Arif, Advocate)

Order (Oral)

Heard the learned counsel for parties.

2. By virtue of this OA, an order dated 27.07.2004 is assailed by which applicants working as Postal Assistants in Ghaziabad Division had been transferred from Ghaziabad to Moradabad against vacant posts..

3. Learned counsel states that earlier chargesheets have been issued to persons working in Sector-12 Noida. A fraud case was conducted and the applicants have been imposed minor penalty. A chargesheet for remitting the cash amount to Sector-12 S.O. without any written orders from SPM Sector-37 SO and without any written requisition from SPC Sector-12 SO, was issued. A minor penalty was affirmed vide orders dated 30.4.2001.

4. Learned counsel further states that the transfer order on the face of it is not on administrative ground and on the basis of fraud case registered against the other employees in Sector-12 Noida.

4. Learned counsel of the applicants has brought my attention to a decision of the Ahmedabad Bench of the Tribunal in D.N. Parmar & Ors. Vs. U.O.I. 1996(1)ATJ CAT 200 where on deletion of transfer liability clause from the appointment letter and in the service conditions of serving employee by Director General of Posts letter dated 23.8.1990, the following observations have been made:-

"ORDER NO. D.G. POSTS LETTER NO. 20-12/90-SPB I
DATED 23.08.1990 ISSUED BY THE DIRECTOR GENERAL OF
POSTS.

As per long standing practice and convention, there is a clause in the initial appointment letters of the employees of the Department of posts to the effect that they can be transferred anywhere in the country under special circumstances.

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2. Since in actual fact a vast majority of Group C and Group D employees is never subjected to the transfer liability implied in this clause, it is felt that such a condition is not necessary in the appointment order.
3. The matter has been considered carefully in consultation with the Ministry of Law. It is, hereby, ordered that no clause or condition, relation to transferability anywhere in the country, under special or general circumstances, should from now on be mentioned in the appointment orders issued to group C and group D employees of the department of Posts. Such a clause existing in the case of the employees already in service also do hereby cancelled with immediate effect and their appointment orders were stand so modified with effect from the date of receipt of this letter.
4. It is also directed that these orders were given wide publicity and also got noted by all the C and Group D staff. Necessary entry in this regard be made in their service Books in due course."
5. If one has regard to the above, the clear preposition, which has not been established to have been ^{overruled} by the Appellate Court, still binds me. The ratio laid down that once the department has already taken a decision to keep Rule -37 of P&T Manual in abeyance, inter-divisional transfers are not permissible. Accordingly, I have no hesitation to hold that the transfer made is in violation of D.G. of Posts's letter dated 23.8.1990 as also against the ratio laid down in Parmar's case (supra).
6. In the result, the impugned order is set aside. Respondents are directed to take consequential steps. No costs.

S. Raju
(Shanker Raju)
Member(J)

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