

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALIAHABAD.

Allahabad this the 15th day of January 1997.

Original application No. 592 of 1996.

Hon'ble Mr. D.S. Baweja, AM

Gulab Chand Verma, a/a 33 years,
S/o Sri Ram Naresh Verma, presently
posted as Accountant Head Post Office,
Deoria.

..... Applicant.

C/A Sri Rakesh Verma
Sri Arun Kumar

Versus

1. Union of India through Post Master General, Gorakhpur Region, Gorakhpur.
2. Senior Superintendent of Post Offices, Deoria Division, Deoria.
3. Senior Post Master, Head Post Office, Deoria.
4. Senior Superintendent of Post Office, Gorakhpur Division, Gorakhpur.

..... Respondents.

C/R Km. S. Srivastava

O R D E R

Hon'ble Mr. D.S. Baweja, AM

This application has been filed with a prayer to quash the orders dated 14.5.96 issued by Senior Superintendent of Post Offices, Deoria Division, dated 17.5.96 issued by Senior Postmaster Head post Office, Deoria and dated 20.5.96 issued by Senior Superintendent Post Offices, Gorakhpur Division, posting back the applicant as Postal Assistant. The applicant has also prayed for issuing direction to the respondents not to interfere with his functioning as Accountant at Head Post Office, Deoria.

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2. The applicant while working as a Postal Assistant passed the examination of P.O. & R.M.S. Accountant's Examination held on 17.5.90. Passing of this examination made him eligible to be posted as a Accountant. While working at Gorakhpur Division, the applicant vide application dated 14.6.95 requested Postmaster General, Gorakhpur Region, Gorakhpur that he may be transferred and posted as Accountant against one of the vacant posts of Accountant in Deoria Head Post Office as there was no vacancy of Accountant available in Gorakhpur Division. PostMaster General agreed to his request which is permissible as per extant rules. He was posted as a Accountant on Deoria Division against one of the vacant posts vide order dated 28.11.95. The applicant joined Deoria Head Post Office on 22.12.95 and continued to work there till 15.5.96. Vide order dated 14.5.96, Senior Superintendent Post Offices Deoria Division in terms of order dated 8.5.96 of Post Master General, Gorakhpur relieved the applicant with immediate effect from the post of Accountant with the direction to report to Senior Superintendent of Post Offices, Gorakhpur for further orders. Senior Postmaster, Deoria Head Of ice, issued order dated 17.5.95 deeming the applicant as relieved with immediate effect from the afternoon of 15.5.96. Thereafter the Senior Superintendent of Post Offices, Gorakhpur Division issued letter dated 20.5.96 posting the applicant back as postal Assistant in the Head Post Office, Gorakhpur. Being aggrieved, the present application has been filed on 24.5.96.

3. The applicant has assailed the impugned orders on the ground that he was not afforded any opportunity of hearing or show cause notice being given before being

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reverted and posted back as Postal Assistant on Gorakhpur Division. The applicant also avers that he was posted as Accountant on request against the vacant post without any rider on Deoria Division and therefore it was not open to the respondents to revert the applicant without any reason when the vacancy was still existing. The applicant also alleges that he has been posted out of Deoria Division back to Gorakhpur Division with an intention to accommodate some other incumbent of own choice.

4. The respondents have filed the counter affidavit. The facts with regard to transfer of the applicant as Accountant on Deoria Division, posting back to Gorakhpur Division as Postal Assistant and issue of various impugned orders are admitted. It is, however, submitted that the post of the Accountant is not a separate cadre but is a post of Postal Assistant with a special pay. The appointments are done based on the Divisional seniority. The rules permit for temporary transfer of the Postal Assistant from one Division to another for being posted as Accountant against the vacancies in case the vacancy in the Division where the incumbent is working is not available. This arrangement could be allowed till such time, the postal Assistant of the concerned Division becomes available for posting as Accountant. Since no vacancy was available on Gorakhpur, on a request made by the applicant, he was posted as Accountant against one of the vacancies available on Deoria Division. The applicant after joining the Deoria Division made a application to show his name in the seniority list of the Deoria Division. Since the transfer was on deputation basis

in terms of the extant rules as explained above, inclusion of the name of the applicant in the seniority unit of Deoria Division was not admissible. Therefore keeping in view his representation, the Director General vide letter dated 8.5.96 ordered to transfer the applicant back to the Gorakhpur Division to which seniority unit he belonged. Since there was no vacancy of the Accountant on the Gorakhpur Division the applicant has been posted back as Postal Assistant. The applicant has no right for continuing as Accountant in another Division with separate seniority group. In view of these facts, the respondents submit that the application is devoid of merits and the same deserves to be rejected.

5. Vide order dated 25.7.96, stay was granted to maintain status quo with respect to the impugned orders dated 14.5.96, 17.5.96 and 20.5.96. This stay was extended from time to time and continued till the pronouncement of the judgement.

6. On the consent of the counsel of the parties, the matter has been heard at the stage of admission itself. The material brought on the record has been also carefully gone into.

7. From the rival contentions, the core facts of the case with regard to transfer as Accountant to Deoria Division and posting back as Postal Assistant on Gorakhpur Division are admitted. As brought out by the respondents, the relevant rules permit transferring of Postal Assistant from one Division to another for posting as a Accountant against the vacancy if on a particular

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Division the qualified Postal Assistant for posting as a Accountant are not available. This posting will be till such time the eligible staff of the Division becomes available. The applicant was transferred as Accountant on request made by him under these rules to Deoria Division against the vacancy. However he has been transferred back as a Postal Assistant inspite of the fact that the vacancy was still existing. There is no averment on behalf of respondents whether any qualified Postal Assistant of Deoria Division has become eligible for posting as Accountant. The only argument put forward by the respondents for sending him back to Gorakhpur Division ^{and} ~~by~~ posting back as Postal Assistant is that the applicant sought his name to be included in the seniority list of Deoria Division. ~~is not tenable~~. I am unable to accept this argument of respondents. In case the rules did not permit to give seniority for such transfer in another Division, the same could have been made clear to the applicant when he made such a request. If the applicant was not willing to continue at Deoria without counting his seniority on Deoria Division, then he could have been transferred back to Gorakhpur Division. From the averments in the counter reply, it is not clear whether such a reply was given to the applicant before reverting him back to his parent Division. It is also not denied that the vacancy was not available. Action taken by the respondents is therefore not understandable. The argument put forward by the respondents as brought out earlier is not cogent enough to justify the action taken to post back and revert the applicant. In view of these facts the applicant is entitled to continue at Deoria against the vacancy as per the extant rules as long as the vacancy is available and the incumbent from the Deoria Division does not become due for posting as Accountant.

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8. In consideration of the above facts, I allow the application with the direction that the applicant shall be continue to be posted as accountant on Deoria Division as per the extant rules ^{the availability of} ~~and qualified by~~ the staff of Deoria Division. The impugned orders dated 8.5.96, 14.5.96 and 17.5.96 are accordingly quashed. No order as to costs.

Arvind
Member

Arvind.