

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH
ALIABAD

DATED: THE 6th DAY OF AUG. 1997

CORAM: Hon'ble Mr. S. Dayal, A.M.

ORIGINAL APPLICATION NO. 727 OF 1996

Smt. Mandavi Devi wife of Shri Shyam-Jiwan Tripathi, aged about 24 years, resident of village and Post Attarra district Jallaun.

.... Applicant

C/A Shri S.P. Dubey, Adv.
Shri K.K. Misra, Adv.

Versus

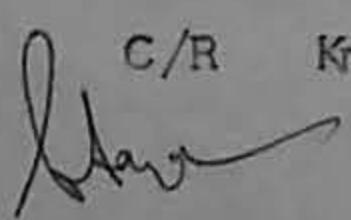
1. Union of India through the Secretary,
Department of Postal and Telegraph,
Government of India, New Delhi.

2. Chief Post Master General,
Uttar Pradesh, Lucknow.

3. Pravar Dak Addhichhak,
Jhansi Division,
Jhansi.

.... Respondents

C/R Km. Sadhana Srivastava, Adv.



ORDER

HON'BLE MR.S.DAYAL, A.M.-

This is an application under section 19 of the Administrative Tribunal's Act, 1985.

2. The applicant seeks relief of an order cancelling the order dated 9.5.1996 passed by respondent no.3 and a direction to the respondents not to relieve the applicant from her post till the decision of this application.

3. The facts as narrated by the applicant in this case are that the applicant was working as Shakha Dakpal of Atrakala and was transferred from that post to the post of Shakha Dakpal Pipri Atgayan on 19.3.1996. The applicant claims that she joined at Pipri Atgayan and is working at Atarkalan which is a mistake as the applicant must mean Pipri Atgayan as stated in paragraph nos.4 and 5. of the application. The respondent no.3 cancelled the order of transfer dated 19.3.1996 vide order dated 9.5.1996. She claims that the order is bad in law and against the transfer policy of the Government. She also claims that her husband made a representation on 13.5.1996 which is still pending. The applicant claims that she had worked at Pipri Atgayan and ~~had~~ ^{as} drawn salary from that post and she claims that she is still holding charge of that post and had not been relieved.

4. The arguments of Shri K.K.Misra counsel for the applicant and Km. Sadhana Srivastava, counsel for the respondents have been heard. The pleadings of the parties have been taken into consideration.

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5. The main plank on which the applicant has sought relief is that her services were satisfactory and there was no complaint. This ground of applicant is found to be not correct if we take into consideration the facts narrated in paragraph 5 of the counter affidavit of the respondents. It has been mentioned by the respondents that the applicant absented herself from the post of Extra Departmental Branch Postmaster, Pipri Atgayan, ^{from 18.7.96} onwards and the mail over-seer Shri Babu Lal was asked to look after the work of E.D.B.P.M. Pipri Atgayan. An application dated 26.7.1996 along with medical certificate dated 3.8.1996 was received in the office of the respondents on 12.8.1996. In any case satisfactory working at a place does not grant any immunity to a Government servant working on a particular ^{from transfer} post. Therefore, the plea of the applicant that the cancellation of the transfer order should be set aside on this ground, is not tenable.

6. The applicant claims that the order of cancellation is against the transfer policy of the Government. Her claim is rendered incorrect in view of the reply of the respondents that the applicant was working as E.D.B.P.M. Atarkalan and her husband was working as E.D.B.P.M. of Pipri Atgayan. The Superintendent of Post Offices, Jhansi Division had allowed the request of the applicant for transfer to Pipri Atgayan while her husband Shri Shyam Jiwan Tripathi was transferred to Atara Kalan. The respondents have mentioned in paragraph no.8 of the counter reply that the applicant had to permanently reside in the village to which he or she was transferred. It is not understood as to how the husband and wife were allowed inter-change of their postings when such a condition existed and how could the wife be expected to reside in a village other than the village in which the husband is living. The order of transfer was obviously

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given by the Senior Superintendent of Post Offices who is respondent no.3 in this case for considerations other than those relevant for transfer. It is also ~~in~~ significant that even the representation against the transfer of the applicant has been made by her husband which shows that the applicant is under total ^{domination} ~~subjection~~ of her husband. The change of station permitted by the official was, therefore, not bonafide and is deprecated.

7. The applicant has also raised the ground of pendency of representation. The representation is of no consequence when the initial order of transfer itself suffered from breach of departmental regulation and the court will not interfere in a case where the impression gained is that an undue favour has been granted to the applicant by an official. The very language of the order of transfer of the applicant to Pipri Atgayan shows that the department has been excessively indulgent to let the husband of the applicant work as E.D.B.P.M. as well as Tubewell operator although the time of working ^{clashed} ~~clashed~~ and the applicant is allowed to work as E.D.B.P.M. of another place. The order of transfer of the applicant shows that the change to Pipri Atgayan is not given as transfer but as permission to work in Pipri Atgayan on a "permanent basis." The applicant has come to the Tribunal for relief against the order of permission to work as a permanent basis which suffered from violation of departmental regulations from the time it was made and has, therefore, been cancelled. The applicant's prayer for relief is misconceived and cannot be granted in the back-ground of this case. Therefore the application is dismissed as having no merits. There shall be no order as to costs.

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MEMBER (A)