

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1ST DAY OF MAY, 2001

DIARY No.2129 of 2001 (OA.543/01)

CORAM:

HON.MR.S.DAYAL, MEMBER(A)

HON.MR.RAFIQ UDDIN, MEMBER(J)

1. Krishna Pal Singh, s/o Late
Shri Yadu nath Singh,
R/2/1545 Nawabganj,
Kanpur.
2. Murari Lal Awasthi, S/o
Shri Vishnudutt Awasthi
R/o 114/123 Chhota Lakhanpur
Behind Guru Deo Palace
Vinaikpur, Kanpur.
3. Shiv Kumar Verma, S/o Late Sri Ram
Verma, R/o R-434 Gujaini,
Kanpur.

.... Applicants

(By Adv: Shri B.N.Singh)

Versus

1. Union of India through Secretary
Department of Post, Dak Bhawan
New Delhi.
2. Chief Post Master General
U.P.Circle, Lucknow.
3. Post Master General, Kanpur
Region, Kanpur.

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

HON.MR.S.DAYAL, A.M.

This application has been filed for setting aside the impugned order dated 27.4.2001 in so far as it relates to the applicant. A further direction to the respondents is sought to the effect that the applicant may not be transferred from their respective Head post offices even after completion of their tenure as Postal Assistants working as PASBCO on non sensitive jobs are

not transferred. It is also prayed that respondent no.3 should be directed to form a group of head post officeds in the light of Govt. order dated 2.3.2000.

The arguments of Shri B.N.Singh, counsel for the applicant, and Shri Ganga Ram Gupta, proxy to Shri R.C.Joshi counsel for the respondents have been heard at admission stage itself.

The learned counsel for the applicant has referred to the circular of Assistant Director General (SPN) addressed to all Chief Post Master General and all Post Masters General. This circular letter dated 2.3.2000 requires that 2-3 HPOS which are contiguous should be grouped together PAs should be transferred to HPOS after they complete their prescribed tenure. It is the contention of the learned counsel for the applicant that the respondents have not done any grouping of HPOS as declared by the circular and therefore the transfers are bad in law.

The second contention of learned counsel for the applicants is that several Postal Assistants working in other HPOS have not been transferred. The names of Ram Babu Postal Assistant Kanpur Cantt, Sri A.K.Bhatia working at Kanpur HPO and Sri T.V. Sachan working at Kanpur HPO have been cited.

The third contention of learned counsel for the applicant is that the tenure of six years was not completed. So far as applicants no.2 and 3 were concerned it is contended that applicant no.3 was transferred to Nawabganj HPO from Kanpur HPO by order dated 23.7.1999 and applicant no.2 was transferred from Cantt HPO to Kanpur HPO in July 1999. Thus the tenure

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of six years has not been followed.

The fourth contention of learned counsel for the applicant is that the applicants are working at Head Office level in Saving Bank Control Organizations as Postal Assistants and have therefore no public dealings and should not be subjected to transfer.

Lastly, it is claimed that applicant no.3 was a Postal Assistant who had been given Computer training for saving bank control organizations work and is being transferred out of his earlier place of posting leaving that place without any computer trained Postal Assistant.

Shri Ganga Ram gupta has opposed the contentions of learned counsel for the applicants stated that the applicants were working on a responsible job and controlled the working of those who had public dealings and were therefore liable to transfer.

We find that the applicants are not denying the liability of being transferred. Their contention that the contents of letter dated 2.3.2000 of the Assistant Director General (SPN) has not been taken into account in effecting their transfer does not entitle them to any exemption from transfer. We find that the three applicants who have been transferred by order dated 27.4.2001 are among 15 officials of SBCO staff (non supervisory) and the officials have been transferred to Fatehgarh and Fatehpur from Kanpur, which are contiguous districts and thus the substance of the order dated 2.3.2000 has been observed without making any grouping.


In any case the order dated 2.3.2000 is in the nature of administrative instructions and the law on transfer is as laid down by the Hon'ble Supreme Court

is very clear. Therefore the facts of not making groupings does not entitle them to any relief in the case before us.

The contention that others who have worked for longer period have not been transferred is also a matter which is to be considered by the respondents and falls clearly in the sphere of administrative action of which no judicial review is called for unless and until it is established that it was done out of any ill will.. No such contention has been made in the application.

The contention that applicant no.3 is a Postal Assistant trained in Computer operations for 15 days is also an issue falls clearly within the competence of respondents to consider at the time of transferring their officials.

The learned counsel for the applicant has contended that the Postal Assistants working under respondent no.2 & 3 as PACO and PARO have never been subjected to transfer and by transferring applicants the respondents have discriminated against them which is contrary to the Art.14&16 of the Constitution. Since we have already held that the transfer is a matter falling within the purview of the action of respondents and would not be subject to judicial review unless and until the violation of any statutory rule or out of malafides, the mere fact that some officials have been transferred while the others have not been transferred would not come within the purview of discrimination as alleged by the learned counsel for the applicant hence this contention does not help him.



The question of tenure raised by the applicants in case of applicants no.2 and 3 is also an issue which falls within the competence of the respondents. We find that the applicants had been working in Kanpur and were transferred locally from one post in [✓]SBCO to another. It is probably for the first time that they are being transferred out of Kanpur City but that does not entitle them to any exemption from transfer which is admittedly an incident of service.

The application is therefore dismissed at admission stage itself since it is lacking merits. No order as to costs.



MEMBER(J)



MEMBER(A)

Dated: 1.5.2001

Uv/