

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 27th day of August, 2004.

Original Application No. 965 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Indra Pal Singh Yadav a/a 52 years
S/o Late Sri Sita Ram Yadav, R/o E-6, Gali No. 1,
Gurunanakpura, Modi Nagar, Ghaziabad, presently posted as
Assistant Post Master, Hapur, Distt. Ghaziabad.

.....Applicant

Counsel for the applicant :- Sri C.B. Yadav
Sri Akhilesh Singh

V E R S U S

1. Union of India through the Secretary,
D/o Telecommunication, New Delhi.
2. The Director General (Posts), New Delhi.
3. The Post Master General, Bareilly.
4. Senior Superintendent of Post Offices,
Ghaziabad Division, Ghaziabad.

.....Respondents

Counsel for the respondents :- Sri Saumitra Singh

O R D E R

The applicant while working as Assistant Post Master, Hapur, was allegedly involved in a fraud case reported by the Regional Office, Bareilly to the Senior Superintendent of Post Offices (SSPO), Ghaziabad Division vide letter dt. 17.05.2004. Consequently by order dated 19.05.2004, the applicant was transferred from Hapur to Moradabad Division. By the same order two other officials of the post office were also transferred; one to Muzaffar Nagar Division and other to Shahjahanpur Division. The applicant filed O.A No. 589/04 challenging the aforesaid order. The O.A was disposed of with a direction to the competent authority to consider and dispose of the applicant's representation. By order dated

Q.D.J

27.07.2004 the representation dated 05.06.2004 (Annexure-2) preferred by the applicant has been rejected holding that there was no justification in reviewing the transfer order. The order dated 27.07.2004 rejecting the applicant's representation is the subject matter of impugnment in this Original Application.

2. I have heard Sri C.B. Yadav, learned counsel for the applicant and Sri S.K. Pandey, holding brief of Sri Saumitra Singh, Senior Standing Counsel who has accepted the notices for the respondents. The applicant, it is not disputed, is facing the disciplinary enquiry in respect of which a charge memo dated 30.01.2004 has been served on him. The delinquency alleged in the charge memo is no doubt of a very serious nature. The SSPO, Ghaziabad Division in the circumstances was justified in observing that in the fact situation of the case, the change of place became essential to restore the public faith in the postal services. However, Sri C.B. Yadav submits that there was no justification for change of division. He has invited my attention to para 66 of the Rules of Postal Manual Vol. III which reads as under:-

" 66. As far as possible, after the irregularities on the part of an official have been detected and disciplinary proceedings against him are completed he should not be transferred out of the jurisdiction of the disciplinary authority who is to conduct the departmental proceedings even though it may sometimes be found desirable to transfer the official to an outstation within the jurisdiction of the same disciplinary authority. If an official in the selection grade in the different division is also considered to be responsible for lapses etc. which justified departmental action, the question of his transfer to the division where the fraud or loss has occurred and where all the records etc. would be available for inspection, should be examined and where necessary, the circle office addressed for necessary action.".

(RJ)

The provision aforesated does not inhibit-in absolute terms, transfer out of jurisdiction of the disciplinary authority or transfer from one division to another division but the opening expression: "As far as possible" used in rule 66 aforesated clearly indicates there must be some reason as to why it is not possible to follow the course prescribed under the rules. However, since attention of the SSPO was not invited to the said provision by the applicant in his representation, I am of the view that it would be meet ends of justice if the O.A is disposed of with a direction that in case the applicant filed a fresh representation seeking modification of the transfer order in the light of provisions contained in Rule 66 of the Rules of Postal Manual Vol. III, the SSPO shall consider the representation and dispose it of in accordance with law expeditiously within a period of one months from the date of receipt of copy of representation alongwith copy of this order.

3. The O.A is disposed of accordingly in terms of above direction with no order as to costs.

Rej
Vice-Chairman.

/Anand/