

8

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated: This the 10<sup>th</sup> day of OCTOBER 2005.

Original Application No. 1020 of 2005.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Kariman Singh, S/o Shri S. Singh,  
Presently working as Senior Supdt. Of Post Offices,  
DEORIA.

.....Applicant

By Adv: Sri A. Tripathi

V E R S U S

1. Union of India through Secretary,  
Ministry of Communication (Deptt. Of Post),  
NEW DELHI.
2. The Post Master General,  
Gorakhpur Region,  
GORAKHPUR.

.....Respondents

By Adv: Sri S. Singh

O R D E R

The applicant assails his transfer order dated 29.08.2005 whereby he has been transferred from the post of SSPO, Deoria to be SSRM 'G' Division, Gorakhpur. The challenge is on the following grounds:-

- a. The applicant was earlier transferred to Deoria only on 15.3.2005 on promotion and as such the present transfer in close heels of the earlier transfer is illegal.
- b. The applicant has got just four months to superannuate. As such the transfer is against the professed norms dated 07.12.1998.

6

c. Though the transfer order stipulates "in the interest of service", the exact reason for transfer has not been spelt out.

2. The respondents have contested the OA. The reasons given by them for the transfer are as under:-

- a. The applicant was found to be most efficient and as such it is felt desirable that his services could better be utilized at RMS Division where he had not earlier served.
- b. His successor at Deoria who is also at the verge of retirement did not have any exposure of independent charge of Divisional Head of Postal wing.
- c. The guidelines dated 7.12.1998 are only directory and not mandatory and as such the applicant cannot questioned the transfer.

3. Arguments were heard. The applicant's counsel submitted that his transfer has not been made bona-fide as the same violates the professed norms of the respondents. It is only with a view to accommodate his successor that this transfer order. As regards public interest he has stated that the reasons given in the counter affidavit cannot justified. The applicant has relied upon the following judgments:-

- a. [1989] 9 ATC 122, H.S. Ajamani Vs. State of MP
- b. 2005(1)ATJ 104, Dr. Ravi Shankar Vs. Union of India & Ors
- c. 2004 (3) ATJ 116, Shob Ram Vs. State of HP & Ors

d. 2003(1)ATJ 151, Laxman Ram Vs. Union of India  
& Ors

4. The counsel for the respondents relies upon order dated 15.09.2005 in OA No. 119 of 2005 whereby the transfer order in respect of another SSPO who also was to superannuate within one year was dismissed.

5. The records reflect that the applicant's earlier transfer was in March 2005 and on promotion. The respondents could have utilized the services of the applicant by posting him as SSRM but presumably the applicant was not posted so as the professed norms provide for no transfer within one year of superannuation. If so posting the applicant in end August 2005 does not instill confidence in the act of the respondents that the transfer is bona-fide. The reason given for the transfer of the applicant that his services could be better utilized as SSRMS appears to be an after thought. Again in posting his successor to have an independent charge at the fag end of his career when admittedly he has not experience at all also signals favoritism to the successor. Thus the uprooting of the applicant from Deoria is evidently to accommodate his successor. The precedent cited by the respondents is of no avail to them as in that case the transfer was on account of serious complaints against the officer and thus was on administrative grounds.

6. Frequent transfers disturbed the family establishment (*B. Varadha Rao v. State of Karnataka,*

62



(1986) 4 SCC 131) especially at the fag end of the career. In fact within 6 months of retirement action for payment of terminal benefits would be taken as such a process would consume a few months. The individual would be planning for proper re-settlement after superannuation and it is keeping in view the aforesaid convincing reasons that during the last year of the career transfer is not normally effected. The authorities no doubt have power to transfer during the last few months of the career but for plausible reasons such as on administrative grounds. In the instant case when the applicant was not transferred to hold the post of SSRM at the time when he was promoted, there appears no justifiable reasons to shift him during the last four months of his career. As a matter of fact at the time when the transfer order was passed the applicant had only four <sup>months</sup> ~~years~~ to superannuate. Normally permanent transfer is affected only for a period beyond six months and as such the transfer of the applicant within four months of superannuation does not fall within permanent transfer. The transfer order thus cannot stand judicial scrutiny and is liable to be quashed as set aside. It is accordingly, ordered.

7. The respondents' counsel had submitted at the time of argument that the successor of the applicant had already joined the post of SSPO Deoria but no documentary proof has been filed in any event on the date when the OA was filed, the successor did not

6

12

join. It has been held in the case of Shobh Ram Vs. State of HP and ors, 2004 (3) ATJ 116 (HP High Court) that the mere fact that the transfer order has been implemented or the petitioner has been relieved should not in normal circumstances inhibit the Court or the Tribunal in undoing the damage. It is for the respondents to suitably accommodate the successor to the applicant in any other place so that he vacates the post of SSPO where the applicant shall remain posted till his superannuation.

8. In view of the above the OA is allowed. The impugned order of transfer is quashed and set aside. The respondents are directed to post the applicant as SSPO Deoria forthwith on receipt of the copy of this order or on the applicant's producing a certified copy of the same. The intervening period from the date of his transfer till the date of his joining shall be regularised by grant of leave if already applied or if the applicant so applies. No cost.



Member (J)

/pc/