

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

O.A. No. 581 of 2020

CORAM:

HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)
HON'BLE MR. T. JACOB, MEMBER(A)

Sri Pramod Kumar Hota, aged bout 59 years, S/o Pravakar Hota, resident of At – Gopinathpur, PO – Anakhia, PS – Biridi Road, Dist – Jagatsinghpur, Odisha, PIN – 754102 presently working as Postmaster, Jagatsinghpur HO, Jagatsinghpur, PIN – 754103. (Gr. B)

.....Applicant

VERSUS

1. Union of India represented through its Secretary of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Chief Post Master General, Odisha Circle, At/PO-Bhubaneswar, Dist-Khurda, Odisha-751001.
3. Director of Postal Services (Hqrs), O/o – CPMG, Odisha, Bhubaneswar, PIN - 751001.
4. Superintendent of Post Offices, Cuttack South Division, Cuttack, PIN – 753001.
5. Ranjan Kumar Sahoo, Postmaster, Banki MDG, PIN – 754008.

.....Respondents.

For the applicant : Mr. C.P. Sahani, counsel

For the respondents: Mr. C. M. Singh, counsel

Mr. A. Mohanty, counsel

Heard & reserved on : 27.04.2021

Order on :12.07.2021

O R D E R

Per Hon'ble Mr. Swarup Kumar Mishra, Member (J):-

The applicant has filed the present OA against the order of transfer. He has prayed for the following reliefs:

- 1) *Admit the original application and*
- 2) *After hearing the counsels for the parties further be pleased to quash the order vide Memo No. ST/26-14(1)/2019-20 (Postal) dated 29.12.2020 at Annexure A/2 and Memo No. B/G-64/Ch IV dated 30.12.2020 at Annexure A/4 in respect to the transfer of the applicant. And consequently, orders may kindly be passed directing the respondents to allow the applicant to complete his tenure as Postmaster, Jagatsinghpur HO and to retire peacefully on 30.04.2022. And/or*
- 3) *Pass any other order(s) as the Hon'ble Tribunal deem just and proper in the interest of justice considering the facts and circumstances of the case and allow this OA.*

2. The brief of the case as inter alia averred by the applicant in the OA is that the applicant at his own request was transferred to Jagatsinghpur HO and was working as Postmaster, Jagatsinghpur HO since June 2019. The applicant submitted that he is scheduled to retire from service on attaining the age of superannuation on 30.04.2022. The applicant submitted that while he had completed only one and half year in his present post out of his tenure of three years, Respondent No. 3 prematurely transferred him vide Memo dated 29.12.2020 (Annexure A/2). The applicant submitted that his transfer is arbitrary, malafide and also violation of Govt. of India policy/instruction on transfer. The applicant had submitted a representation dated 30.12.2020 (Annexure A/3) to Respondent No. 2 which is still pending. The applicant submitted that while his representation was still pending, Respondent No. 4 vide letter dated 30.12.2020 (Annexure A/4) directed the applicant to be relieved on 01.01.2021 even in absence of reliever which shows wrong intention of the respondents. The applicant submitted that his premature transfer is clear violation of guidelines for transfer issued by DG Post letter dated 17.01.2019 (Annexure A/5) and DoPT OM dated 02.07.2015 & 16.07.2015 (Annexure A/6). The applicant further submitted that his wife is working as Assistant Teacher in Govt School at Jagatsinghpur and he was transferred to Jagatsinghpur in

obedience of the DoPT OM dated 30.09.2009 regarding posting of husband and wife at same station.

3. The respondents in their counter inter alia averred that the applicant was transferred in public interest after some gross irregularities were found at Jagatsinghpur HO during the annual inspection on 16.12.2020. Basing on the report dated 22.12.2020 (Annexure R/7) submitted to Respondent No. 3 & 2 to consider shifting of the applicant from Jagatsinghpur HO in the interest of service and for further inquiry/investigation process of irregularities. The respondents further submitted that due to humanitarian consideration the applicant was transferred to Jagatsinghpur HO but the applicant failed to encash the opportunity provided and indulged himself in activities, judged detrimental both for the department as well as in the interest of public service for which he was transferred. The respondents submitted that the transfer was done as per para 5(i) of the transfer guidelines of directorate letter dated 17.01.2019 wherein it is stated that an official may be transferred before completion of post/station tenure on administrative grounds for reasons to be recorded in writing by an Authority who is superior to the authority competent to order such transfer. The transfer of the applicant was made on the basis of the recommendation of a High Power Committee headed by the Director Postal Services (HQ), the Respondent No. 3 on administrative ground duly approved by the Head of the Circle, the Respondent No. 2 by observing all departmental guidelines issued from time to time relating to transfer and posting.

4. Heard learned counsel for both the sides and have carefully gone through their pleadings, materials on record and citations relied upon by them.

5. Learned counsel for the applicant submitted that the transfer from Jagatsinghpur HO to Balugaon MDH of the applicant is not sustainable mainly

on the ground that the minimum tenure at his present place of posting at Jagatsinghpur as per DG PT letter dt. 17.01.2019 is three years whereas he has been disturbed from the place of posting before completion of the said tenure, he has just about one year service left to retire and thus ought not to have been disturbed as per DOPT OM dated 02.07.2015 and 16.07.2015 (Annexure A/6); his spouse being an employee of the State Govt posted at Jagatsinghpur his transfer is contravening to DOPT OM dated 30.09.2019 wherein it has been provided that husband and wife should be posted at one place. The impugned order is nothing but an outcome of malice because the applicant is working as Divisional President of Employee Union and accordingly it has been stated that action of respondents is unlawful, arbitrary and violating the Article 14 of the Constitution.

6. On the other hand learned counsel appearing for the respondents submitted that transfer is an incident of service and who should be posted where is a matter to be decided by the authority and Court/Tribunal should not interfere in such order of transfer. It has been submitted by him that the applicant was transferred and posted as postmaster Jagatsinghpur on humanitarian ground but the applicant miserably failed to encash the opportunity provided and indulged himself in activities judged detrimental both for the departmental of post and in the interest of service and due to his poor performance, lackadaisical, apathetical attitude towards discharging onerous duties of Postmaster Jagatsinghpur HO and his involvement in gross financial irregularities he was transferred from his present place of posting in public interest. Further case of the respondents that while commencing the annual inspection of Jagatsinghpur HO on 16.12.2020 some irregularities including financial irregularities were found in Jagathsingpur HO and based on such irregularities a special report was submitted to the

competent authority for further action. The matter was place before High Powered committee who after considering the case of the applicant and other had recommended the transfer of the applicant from Jagatsingpur to Balugaon MDH and posting Respondent No. 5 in place of applicant in Jagatsinghpur HO. It has been reiterated that since the transfer of the applicant was in public interest and administrative exigency judicial intervention is not required .

6. We have considered the rival submission of the applicant and we are conscious of power of interference in the order of transfer of an employee made in public interest or administrative exigencies. It is seen that the transfer of the applicant was made on the basis of a High Powered Committee which looked into the special report on irregularities at Jagatsinghpur HO, during the incumbency of the applicant, submitted by the Superintendent of Post Offices to DPS (Hqrs), Bhubaneswar with a request for shifting of the applicant. Basing on the report, the Director Postal Services (HQ)/Respondent No. 3 transferred the applicant due to his incapability to efficiently handle the affairs of Jagatsinghpur HO. It is also seen from the guidelines dated 17.01.2019 (Annexure R/1) at 5 (i) that *“an employee may be transferred before completion of post/station tenure on administrative grounds for reasons to be recorded in writing by an authority who is superior to the authority competent to order such transfer. The Authority Competent to approve the rotational transfer in normal curse will initiate the proposal with proper justification for approval of the superior authority.”* Therefore, we find that the action of the respondents in transferring the applicant is purely an administrative exercise done on public interest and no illegality or irregularity has been committed by the Respondents. It is the duty of the respondents to ensure smooth functioning of the department for convenience of

public. The applicant has also failed to prove that there was any malafide by any of the respondents in passing the transfer order in question.

7. Accordingly the OA is dismissed but in the circumstances without any order to cost.

(T JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

(csk)