

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 876 of 1992

Sri Hari Krishna Upadhyaya ... Applicant
Versus
Union of India and Others ... Respondents

CORAM:

Hon. Mr. Justice S.K. Dhaon, V.C

In this application the order transferring
the applicant and thereafter suspending him from
service/^{are}~~is~~ being impugned.

2. A Counter affidavit has been filed on behalf of the respondents. Counsel for the parties have been heard. Though this application has not been formally admitted as yet, it is being disposed off finally with the consent of the parties. On 16.3.92 the applicant was working as an officiating Sub-Post Master at Saltauwa in the district of Basti. On that day an order was passed by the Supdt. of Post Offices, Basti Division transferring the applicant from Saltauwa to Basti Head quarter on administrative grounds.

3. In order to assail the order of transfer, the counsel for the applicant relies upon a

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communication dated 11.2.1992 of the Director(staff) D.O. (Posts) New Delhi. This communication is addressed to all concerned and its subject is described as; " rotational transfer-Policy guide line for the year 1992-93". In the first part of this communication a total ban is imposed upon transfers of Gazetted as well as Non Gazetted staff. However, it provides that transfers in exceptional cases, which should be very rare, should be ordered with the personal approval of the head of the Circle concerned. In Paragraph 2, it is clarified that the instructions would not be applicable to officials manning single handed Post Offices and in respect of rotational transfers within Cities/Towns where T.A is not involved.

4. It appears to be an admitted position that the applicant was not manning the post office all alone. The impugned order of transfer indicates that it was not a rotational transfer of the applicant. As already indicated, the order recites that he has been transferred on administrative grounds.

5. In Para 4.33, it has been averred that the applicant has been transferred in derogation of the policy contained in the aforementioned

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communication dated 11.2.1992. In/^{the}reply filed, this allegation is not denied. On the contrary, a true copy of the aforementioned communication dated 11.2.92 has been annexed. In the reply filed on ^{there is} behalf of the respondents, /not even a whisper that the impugned order of transfer was passed with the personal approval of the head of the Circle concerned. It is thus clear that the impugned order has been passed in the teeth of the transfer policy.

6. It is contended by the counsel for the respondents that the original place of posting of the applicant is within the district of Basti and the distance between the original place of posting and Basti is about 30 kms. He also points out that, since the applicant is facing departmental proceedings, with regard to serious charges of imprisonment etc, it will not be in the public interest to allow him to stay in the village Saltauwa. There appears to be ~~some~~ force in this submission. It is made clear that inspite of the fact that the impugned order of transfer is being quashed, the applicant shall not enter ~~in~~ the village of Saltauwa till evidence has been recorded by the Enquiry Officer. With these observations, the impugned order of transfer is quashed.

7. Coming to the order of suspension, it is clear that the same has been passed pending

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pre-proceedings. It is admitted at the Bar that a charge memo has been given to the applicant and he has given thereto. There is no ground to interfere with the order of suspension. The order of suspension is therefore sustained. It is expected that the Enquiry Officer shall act expeditiously. It is made clear that if the applicant is not being paid subsistence allowance, that shall be done.

8. With the above directions, this application is disposed off finally without any order as to the costs.

Suy
Vice Chairman

Dated: 20th Nov: 1992:

(Uv)