

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Original Application No. 900 of 1992

Chandra Prakash Yadava Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava, VC

The applicant who belongs to a transferable service was posted as S.D.I. Kasiya Sub division of District Deoria. ^{HE} ~~and~~ joined the said post on 25.5.1990. Vide order dated 30.6.1992, he has been transferred ~~to~~ from the post of S.D.I.(P), Kasiya, Deoria to G.I. Gorakhpur. Against this transfer order, the applicant has approached this Tribunal, contending that the said order is illegal, arbitrary, malafide and against the rule 37 A of Chapter-II of Transfer and Postings, Post and Telegraph Manual, Volume-IV and rule 59 and is also a malafide transfer.

2. According to the applicant, in order to accommodate one Sri Mumtaz Ahmad who was posted as Office Superintendent, Azamgarh, but ~~who~~ did not join the said post of Transfer, ^{and} ~~there~~ made certain representations for being posted as S.D.I. Kasiya and that's why he ^{the same was done} ~~has been posted as S.D.I. Kasiya.~~ ^{has stated} Although Today, the learned counsel ~~tells me~~ that in the earlier list of transfer too, his name did not figure and the name of Mumtaz Ahmad figured, but he did not join the ^{his} ~~said~~ place of posting and ultimately, he has now been transferred to Kasiya, putting applicant in great difficulty as his children ^{also} are studying ~~there~~ at Kasiya. The transfer orders

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are passed in exigency of service and the government servant has got no right to say that he ^{is} ~~has~~ to be posted at the particular station on particular point of time. As far as the rules are concerned, on which reliance has been placed at the most their guidelines have got no statutory force and ~~are not~~ ~~are~~ are directory in nature. Rule 37-A on which reliance has been placed, ~~which~~ is not a statutory rule on which reliance has been placed, provides that transfer be made in the month of April of each year. According to the applicant, as the transfer order has been passed in the month of June. So it is in violation of the said rule. Rule which only directory is directory nature and it only prescribed as far as possible, it may be done in the month of April, but it is not a dead line and the transfer order can even be passed thereafter. Educational session normally starts in the month of July and in place of April a transfer order is passed in the month of June, no loss and harm is caused to ^a person and it can not be said any violation of guideline has been done. The guideline of 59 on which a reliance has been placed provides that an Assistant Superintendent of post Offices or R.M.S. and a Sub-Divisional Inspector (Postal) should not ordinarily remain in the same Division or Sub-Division, as the case may be, or in the same post for more than 4 years at a time. The said so called rule which is a directory in nature only, more or less rather prescribes a maximum limits of a retention of an official at a particular place and not that it prescribes the minimum 2 years for the same.

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3. The respondents have made reference to the instructions issued by the government of India, Director General(Posts), New Delhi's letter dated 12.4.1991, circulated on 22.7.1991, which provide that for sensitive post and the tenure should not be more than 2 and 3 years. The post in question being sensitive post and that's why according to the respondents they have transferred him. Even otherwise, a person has got no right to stay at a particular station and in case, he is transferred, he must go. There appears to be no malafide in transfer order. The applicant was to be transferred, it may be that Mumtaz Ahmad could not be fixed elsewhere and he has been posted at this particular station. They by himself will not indicate that there is malafide behind the order and in order to accommodate one Mumtaz Ahmad ultimately at Kasiya after trying for two other places, it will be a malafide order and accordingly, there appears to be no merit in the transfer application and the applicant has enjoyed the stay at that place because of the intervention of the tribunal, which has passed the interim order in this case. Anyhow, the applicant raised the grievance that his children are studying in the School and he can be allowed to stay on that station at least till the present session for that the applicant even now approached

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the department and in case, the applicant is still
interested^{for} some time; more, he may file a representation
before the department within a period of 15 days and the
department will consider his representation on merit.
No order as to the costs.


Vice-Chairman

Allahabad Dated: 25.11.1992

(RKA)