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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 1845 of 1993

Raghbir Singh Raj : : : : : Applicant

Vs.

Union of India and Others : : : : : Respondents

Hon'ble Mr. Maharaj Din, Member 'J'

The applicant was posted in the office of Senior Post Master, Main Post Office, Agra. He has approached this Tribunal being aggrieved by his transfer order dated 09.11.1993 (Annexure-I) whereby he has been transferred from Agra to Iradatnagar.

2. It is stated that at Agra, a canteen is run by the department for providing snacks etc. to the employees on subsidised rates. The applicant was appointed as Secretary of the said canteen. He said to have observed irregularities in running the canteen and directed Bhanu Pratap Tripathi, Salesman to submit the account to Sri Ram Arora, Manager of the Canteen but according to him neither account were checked nor the amount was deposited. Senior Superintendent of Post Office was ordered for Enquiry to be conducted and on the basis of false statement of the Manager

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and Salesman, the applicant was transferred from Agra to Iradatnagar. As such according to the applicant his order of transfer is malafide.

3. The respondents filed Counter-reply and resisted the claim of the applicant inter-alia on the ground that the order of transfer was passed in exigency of service and it is wrong to say that there was any malafide in passing the order of transfer.

4 I have heard the learned counsel  
parties  
for the part. and perused the record.

5. In order to show malafide, the applicant has filed a letter written by Senior Superintendent of Post Office in reply to the letter dated 10.11.93 that the applicant was guilty of misappropriation of Government money and furnish deliberate false information therefore, he was transferred from Agra to in the interest of service. Upon which senior post master wrote to the applicant that enquiry was necessary in the matter and the applicant was asked to give explanation (Annexure-IV). The applicant has stated that an enquiry was got conducted and it was found that the applicant was responsible for misappropriation of the Government money and it was recommended that the applicant should be transferred from Agra, so that disciplinary proceedings may be drawn against him, as would appear from Annexure C.A.-1.

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If the transfer of a Government servant is made when any enquiry or departmental proceedings are contemplated then it would not amount that there was any malafide or the order of transfer is irregular. The applicant has alleged malafide against the Manager and the Salesman of the Canteen and no malafide is alleged or proved against the Senior Superintendent of Post Office who passed the order of transfer. The applicant was relieved on transfer vide letter dated 23.11.93 (Annexure A-7).

6. The applicant held the post of Leave Reserved Postal Assistant and he was transferred to Iradatnagar which is not a distant place from Agra, on a vacancy created by Pratap Singh who proceeded on long leave. The very nature of the post held by the applicant itself indicates that he is to be posted on leave reserved vacancy as a Postal Assistant. Since the vacancy was created as Iradat Nagar on proceeding of Pratap Singh on long leave, therefore, he has been transferred and posted as Leave Reserved Postal Assistant. The impugned order of transfer (Annexure-I) itself does not indicates that he was transferred on account of any punishment. The transfer of a Government employee is the incidence of service and official cannot claims to remain ~~on~~ <sup>a</sup> particular place as a matter of right. The post <sup>held</sup> ~~held~~ by the applicant is a transferable post and he has to be shifted frequently on creation of leave vacancy so it is not proper for this Tribunal to make

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interference in the matter of transfer of the applicant from Agra to Iradatnagar. In Union of India Vs. H.N. Kirtania, 1989 Supreme Court(L & S) 483, the law <sup>is</sup> laid down that when the transfer of a Government servant <sup>is</sup> made on Administrative ground or in public interest, it is not open to the Court or Tribunal to interfere unless malafide or any illegality in passing the transfer order is made. Here the applicant has failed to establish any malafide against the authority who passed the impugned order of transfer. The applicant does not say that the order of transfer was passed in violation of statutory rules so, I find no merit in the case.

7. In view of the discussion made above, the application of the applicant is devoid of merit which is hereby dismissed with no order as to costs.



Member (J)

Allahabad, Dated 27<sup>th</sup> May, 1994

/M.M./