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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 952 of 1993

Babbu Ram and others Applicants.

Versus

Union of India
and others Respondents.

...

(By Hon. Mr. Maharaj-Din, Member(J))

In this application, the applicants have sought the declaration that they may be treated similarly in case of transfer from one place to another like their counter parts (Postal Assistant). Further it is prayed that their transfers should not be made in any place falling in the circle.

2. The relevant facts giving rise to this application are that the applicants were posted as Postal Assistants in Saving Bank Control Organisation (S.B.C.O. in short). The applicants, prior to 1.8.1993 designated as Lower Division Clerks/Upper Division Clerks and w.e.f. 1.8.1991 Both the posts were merged in a common cadre of Postal Assistant (S.B.C.O.) in the pay scale of Rs. 975-1640/-. It is stated that vide communication dated 26.7.1991, the applicants were brought at par and merged in the cadre of Postal Assistants. The applicants are posted at Kanpur in four different divisions, namely Kanpur Cantt. Head Post Office, Kanpur Head Post Office, Nawabganj H.P.O. and Kanpur H.P.O. respectively. It is said that the applicants came to know that the respondents have decided to

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transfer the Postal Assistant^a (SBCO) and the Lower Selection Goods Supervisor^a out-side the Division. The applicants, being aggrieved by this decision taken by the respondents, have approached this Tribunal seeking the relief that they should not be transferred out side the division.

2. That Respondents have filed counter reply and resisted the claim of the applicants inter alia on the ground that the applicants, as per rules, and the policy decision of the department may be transferred out side the division.

3. We have heard the learned counsel for the parties and perused the record. It is to be noted that no transfer order was in existence in case of the applicants at the time when the application has been instituted in this Tribunal. The order of transfer in respect of applicant No. 2(Annexure- R.A.3) came into existence during the pendency of the proceedings of this application. This transfer letter indicates that the applicant no. 2 has been transferred from PASCO Kanpur Head Office to PASCO Kanpur Cantt. Head Office. So his transfer, obviously, has not been made out side the division. During the course of argument, the learned counsel for the applicants has stated that the resps of the applicants have also been transferred but no such transfer order has been produced so far, nor anything has been said in this respect in the

rejoinder affidavit. All India Saving Bank Central Employees Union has joined as one of the applicant but the Union of the Employee under Section 19 of the Administrative Tribunals Act has been empowered to file a petition seeking any relief in respect of the Union. The learned counsel does not dispute this legal aspects of the matter and has stated at bar that the Union arrayed as applicant no. 5 ~~and~~ will be treated to have been withdrawn from the array of the applicants.

4. The only point for determination in this case now remains whether the applicants who are the postal Assistants² (SBCO) can be transferred from out side division or not? In this connection, ^{only 2} ~~only 2~~ attention has been drawn towards an agenda filed together with the rejoinder affidavit as Annexure- R.A. 2 from which the relevant portion about transfer of liabilities of postal assistants² (SBCO) is extracted as under;

"Transfer Liability;

w.e.f. 1.8.91 almost all the post of U.D.Cs in the SBCO/CPO/CPU/ICO have been converted into those of Postal Aisstants (SBCO). These new posts are the same as they obtain in the post offices. But despite the above fact, there is a big difference in their service conditions. Where as a post office Postal Assistant is liable to transfer within the division he has been appointed in the transfer liability in the cases of PA (SBCO) stretches as far as the boundaries of a circle. This transfer liability

[Signature]

has far reaching adverse effects both on the worker and the department, the worker is under the continuous feared being transferred to a far flung areas with all the hardships attendant thereon, the department fails to get the best out of its employees who are disgruntled on this score all the time.

Had the transfer liability in respect of Postal Assistants (SBCO) also been restricted to a division, it would have installed a sense of security amongst the S.B.C.O. workers. With every transfer the S.B.C.O. employee is at great pains because not only has he to shift his entire establishment, he also suffers on a very important count i.e. The education of his/her children. All these years the S.B.C.O. Employee have been groaning under this sword of demociès.

It is, therefore, requested that now with the conversion of the Cadres, The transfer liability of Postal Assistants (S.B.C.O.) may also be restricted to a Division, so the S.B.C.O. Staff is saved of that great hardship.

This issue was discussed with the then Secretary Posts Sh. Kailash Prakash who had agreed in principle that the transfer liabilities could be restricted if S.B.C.O. Employees agree with merger of S.B. Branch. Now after discussion with all the Circle Secretaries we have reached on the final conclusion that we are ready to merge with S.B. if the transfer liabilities are restricted within the Division."

5. The respondents, in reply, have said that the representation of the All India Saving Bank Control Employees Union has already been decided by the Director General Posts vide letter No. 51-3/92-SPB-I Dated 23.11.1992 requests relating to reduce all

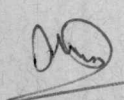
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transfer liability has not been aggrieved to maintain that the postal Assistant² (SBCO) cannot be brought at par with the postal assistant².

6. According to ~~this~~ para of the agenda (Annexure-R.A.2) even Secretary Posts Sri Kailash Pratap agreed in principle to the proposal that the transfer liabilities could be restricted if SBCOs employees agree with the merger of S.B. Branch. After discussion with all circle secretaries, they have reached on the final conclusion that they were ready to merge with S.B. after transfer liabilities are restricted within the division. The learned counsel for the respondents urged that this agenda (Annexure- R.A.2) has already been considered and in this respect copy of the communication dated 23.11.1992 from Assistant Director General (SPN) Department of post, New, Delhi, addressed to All Chief P.M.Gs. has been produced as Annexure-C.A. 4 which reads as under;

"The All India Savings Bank Control Employees Union have been representing about reducing the transfer liability of the staff of SBCO and bringing them in line with that of the Postal Assistants. After careful consideration of the matter it has been decided not to agree to the request. However, on account of the difficulties and hardships faced by the employees of the SBCO on account of their liability for transfer in the entire circle, it has been decided that, as far as possible transfer of PAs SBCO may be confined within a region without taking away their liability for transfer within the entire circle."



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This communication makes it clear that on account of difficulties and hardship faced by the employees of the SBCO on account of their liability for transfer in entire circle, it has been decided that as far as possible, transfer of PAs, SBCO may be confined within the region without taking away their liability for transfer within the entire circle. Thus, according to the documents filed by the parties as referred to above, the postal Assistant² SBCO may be transferred in the entire circle. The respondents during the course of the present proceedings have transferred the applicant no. 2 from PAs SBCO Kanpur Head Office to PA SBCO Kanpur Cantt. Head Office. In the agenda (Annexure- R.A.2), it has agreed on principle relating transfer liabilities of SBCOs within the devision but the rules in this respect are yet to be framed and if the communication (Annexure-CA 4) is read together with the discussion and conclusion arrived at in view of the Agenda of the Union, the policy decision has been taken that as far as possible the transfer of postal Assistants may be confined within the region without taking away their liabilities for transfer within the entire circle.

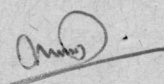
7. In view of the discussions made above, the application of the applicants is disposed of with the direction to the respondents that as far as possible the transfer of the applicants be made within region. This is, however, made clear that if the observation as made above, is complied with by making the transfer of the applicants within the region, it will not take



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away their liability for transfer within the
entire circle. There will be no order as to
costs.



Member(J)

Dated: 15.10.1993
(n.ul)