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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1771 of 1994

Dated: 02.12.1994

Kamlesh Tripathi S/O Shri Bhagwati Tripathi
R/O Village and Post Belwa. District-Varanasi

.... Applicant.

By Advocate Shri S.N.Srivastava
Shri I.C.Pandey

Versus

The Union of India & Ors.

.... Respondents.

By Advocate Shri ---

C O R A M

Hon'ble Mr. T.L.Verma, Member-J

(O R D E R)

Heard Shri S.N.Srivastava for the
applicant on admission. Supplementary Affidavit
filed today. Let it be kept on record.

2. Shri Kamlesh Tripathi, Postal Assistant
presently posted ⁱⁿ ~~at~~ Head Post Office, Varanasi Cantt,
^{FL}
has filed this application for quashing the order
transferring him from Varanasi to Agra vide Annexure-1
& 2.

3. The applicant has been transferred on being
declared surplus consequent upon abolition of posts
on extention of time bound one promotion and biennial
cadre review scheme.

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When ^{FL} an employee is declared surplus, consequent
upon abolition of post, transfer becomes necessary. ~~FL~~

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that being so, the applicant cannot escape this transfer. It is however, stated by the learned counsel for the applicant that two Postal Assistants posted at Varanasi are junior to him but they have been arbitrarily retained in preference to the applicant. The applicant and the other 2 persons named in the ^{Supplementary} Counter Affidavit, ~~said~~ stated to be junior to the applicant, ^{if} have joined in 1987. In absence of the date of their appointment, it is difficult to say as to which of them is senior.

In addition to the above, it is stated, the Post Master General, Allahabad Region has by his letter dated 12.7.1994 (Annexure-14) recommended that the applicant be retained in Allahabad Region where 3 vacancies are available in one of which the applicant can be adjusted. The Chief Post Master General has not yet passed any order on the recommendation of the P.M.G. Allahabad.

4. So far as the jurisdiction of the Courts to interfere in matters relating to transfer orders passed by a Competent Authority is concerned, a clear line of demarcation has been ^{drawn} ~~laid down~~ by the Supreme Court in Shilpi Bose & Ors. Vs. State of Bihar & Ors. ^{if} reported in 1992 SCC (L&S) page 127; wherein, it has been held;

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"That, even if a transfer is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead, affected person who approach the higher authority in the department."

5. In view of the principles ^{of law &} enunciated by the Supreme Court in the case referred to above and having regard to the fact that the recommendation for retaining the applicant in Allahabad region made by Post Master General is still pending, I am not inclined to interfere with the order transferring the applicant to Agra region. The applicant, however, is entitled to a reply to the representation filed by him for being retained in Allahabad region.

6. In view of the above, this application is being disposed of with a direction to the respondents to dispose of the representation of the applicant with a ~~sp~~ reasoned and speaking order within a period of one month from the date of service of this order in the light of the recommendation made by the P.M.G. Allahabad region.

J. Sharma
Member-J

/jw/