

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 26th day of February 1997

Original Application No. 1006 of 1994.

Hon'ble Mr. S. Dayal, Administrative Member.

B.C. Mishra, S/o Late Sri Raj Kishore Mishra, R/o Village
Bhawanpur, Post Office Terhi, District Azamgarh.

.... Applicant

C/A Sri R.K. Tiwari

Versus

1. Sr. Supdt. Posts Azargarh.
2. Director of Postal Services Office of P.M.G. Gorakhpur.
3. Union of India, through the Secretary, Ministry of Communications, New Delhi.

.... Respondents.

C/R Km. Sadhana Srivastava

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has been seeking the setting aside of impugned transfer order and award the cost of the application.

3. The facts of the case are that the applicant is

// 2 //

Postal Assistant of the Saving Bank Control Organisation, Gorakhpur. He was transferred in May 1992 from the post of Permanent Assistant, Savings Bank Control Organisation, Deoria, Head Post Office to the post of postal Assistant Savings Banks Control Organisation, Azamgarh, Post Office at his own request and cost by order dated 13.05.92.

The Senior Post Master, Azamgarh expressed his inability to let the applicant resume his charge in Savings Bank Control Organisation Branch of Azamgarh, Head Post Office as there was no vacancy. The applicant was permitted to join as purely temporary measure and as special case as Postal Assistant in general line at Azamgarh, Head Post Office on 01.06.92. He was designated as Additional Postal Assistant attached to Saving Bank Control Organisation Branch. The applicant was denied his increments falling due on 01.02.93, 01.02.94 and then onwards till date. The re-presentation dated 19.03.93 of the applicant was returned with the remarks that the service book was not available as it could not be received from Gorakhpur till that time. The applicant was also not granted one time bound promotion in L.S.G cadre from 01.08.91 and it was mentioned that the promotion could not be granted for want of service records, C.R dossier. The applicant made applications against this act of withholding of promotion on 17.03.93 and 07.12.93, but orders on promotion issued ^{by} the P.M.G dated 29.04.94 did not include his name. Posts of Personal Assistant S.B.C.O and Postal Assistant in the General line are not interchangeable except in Special Circumstances and such incumbents are likely to be repatriated to S.B.C.O branch as soon as first occasion arises. The applicant was not repatriated,

// 3 //

although Sri Ram Prasad vacated the said post due to his transfer to Bansi Head Post Office on 30.03.93 and, thereafter, four Postal Assistants S.B.C.O. were transferred out on 21.05.94. All these posts were filled up by persons from out side and the applicant was put to work as Postal Assistant General Line. If he was given the post of Postal Assistant S.B.C.O. branch, he would have completed his terms of 4 years in Azamgarh, S.B.C.O. branch. The applicant claimed that he had been transferred before completion of his tenure. The applicant also alleges that Sri Man Bahadur Singh and Sri Chunni Lal who were Postal Assistant, S.B.C.O. were retained at Azamgarh at General Line but the applicant was transferred.

4. Arguements of Sri R.K. Tewari learned counsel for the applicant and Km. Sadhana Srivastava learned counsel for the respondents were heard.

5. The respondents have pointed out in their counter affidavit that the applicant worked as Postal Assistant in Azamgarh Post Office from 02.06.92 to 28.05.94 and he proceeded on L.T.C on 29.05.94 after getting relieved on 28.05.94. He returned from leave after its expiry on 27.07.94. In the meanwhile transfer order was received on 06.06.94 for his transfer from Azamgarh Head Post Office to S.B.C.O., Padrauna dated 31.05.94, issued by P.M.G., Gorakhpur. The respondents have also stated that they have not received any representation from the applicant against the order of his transfer.

// 4 //

6. The Apex Court has defined the extent to judicial review ~~which~~ can be made in case of transfer in a number of recent pronouncements: they have ~~restricted~~ the scope of judicial review in case of transfer of those in which there is any statutory bar to transfer or where transfer has been motivated by malice. The present case falls in neither of the two categories and, therefore, this court would not intervene in transfer of the applicant. Although the applicant has mentioned about withholding of increment and promotion, he has not asked for any relief pertaining to either of these two matters. He seems to have ~~recited~~ withheld of increments and promotion to suggest that some prejudice was operating against him. The respondents in their Counter Affidavit have explained the circumstances in which his increment and one time bound promotion could not be given, therefore, no malice can be assumed from withholding of increment or promotion.

7. The application of the applicant is, therefore, dismissed as having no merits.

8. There shall be no order as to costs.



Member-A

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