

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

RA/M.A /O.A./ T.A./ 217 ⁹⁰
1980

R K Goswami Applicant (s).

M D Rana Adv. for the
Petitioner (s).

Versus

Union of India & @ Respondent (s).

J D Agarwal Adv. for the
Respondent (s).

SR. NO.	DATE.	ORDERS.
		<u>Transfer</u> <u>14/5/80</u> P - P.A. & sepa pending admisssn. - RFAO received from both respondents (Copy Served)

Coram : Hon'ble Mr. M.M.Singh : Administrative Member
11/5/1990

Heard Mr. M.D.Rana, learned counsel for the applicant and Mr. J.D.Ajmera, learned counsel for the respondents. Mr. Rana strongly urged for ad interim relief restraining 2nd respondent, their servants and agents from enforcing or implementing the impugned order of transfer dated 2.5.1990 by which 65 persons have been transferred by the office of the Superintendent of Post Offices, Junagadh Division, Junagadh, from one office to another in the same place or from one place to another in the same rank. The applicant figures at Sr.No.23. The applicant, according to the present post, is Sub Post Master at Kevadara which the learned advocate for the applicant says is in Junagadh district. He is mentioned as transferred to Talala as Postal Assistant in the same rank. The learned advocate for the applicant says that Talala is also in Junagadh district. He drew attention to Rule 60 in Swamy's Compilation of Posts and Telegraphs Manual in which on the subject of transfers and postings, the following provision appears:

"60. The following posts should not ordinarily be occupied by the same officials continuously at a time for more than the period shown against each.

(1) Office Supervisors, Office of Superintendents ...	X
(2) Investigating inspectors and Sorting Inspectors in Circle Offices	X
(3) Section Supervisors of sections in Circle Offices	X
(4) Postal Assistants in General Post Offices or First Class head post Offices dealing with staff cases.	X
(5) Office Assistants in offices of the Superintendents of Post Offices and Railway Mail Service except sorting assistants in offices of Superintendents R.M.S.	X
(6) Postal Assistants working in the correspondence and accounts Branches of head post offices.	X
(7) Postal Assistants working in the Philatelic Bureau . . .	X

4 years

(7) Non-gazetted head postmasters X
X 3 years
(8-A) Departmental Branch Postmasters" ... X

According to the learned advocate for the applicant, the applicant falls in category 7 and 8-A. He then drew attention to Rule 62 in the same compilation which says:

"62. The rotation orders contained in Rule 59 to 61 above in so far as they relate to officials mentioned therein should be followed strictly and any deviation therefrom should not be allowed unless the Head of the Circle is personally and fully satisfied about the need for the same."

According to the learned advocate for the applicant, the transfer is bad in law being against the above rules. The contention of the learned advocate for the applicant in this regard is disputable as Rule 60 lays down the ordinary maximum period ^{an} incumbent can stay at place, i.e. three years in the case of the applicant. This rule does not say that an employee cannot be transferred in less than that period. The applicant is at his present place from June 1988 and upto the date of the order has completed there one year and about 10 months. As ~~these~~ years is the maximum period permissible, his transfer at the end of one year and 10 months does not, on the face of it, appear highly arbitrary.

In the application certain allegation of malafide of fact have been made in para 4.4 against the Superintendent of Post Offices. It will be just and proper to give the respondents an opportunity to reply before considering the prayer for an ad interim order. At the moment when the applicant's name figures in the list of 66 employees under transfer, to allege that his name came to be inserted ⁱⁿ ~~call~~ because of the malafide alleged ~~case~~ for a reply from the respondents. No acceptable case is made out at this juncture for interim relief.

.. 3 ..

The respondents have four weeks time to submit their reply on ad interim relief and on merits and the applicants will have two weeks thereafter for rejoinder, if any. Thereafter the case be listed for further orders.

M. M. Singh

(M.M.Singh)
Administrative Member

a.a.b.

O.A. 217 OF 1990

(Disposal in Chamber)

Coram : Hon'ble Mr. M.M. Singh, Administrative Member

Date: 20-6-1990

Mr. M.D. Rana, learned advocate for the applicant R.K. Goswami seeks permission to withdraw the application O.A.No. 217/90. Permission granted. O.A.No. 217/90 disposed of as withdrawn.

M M Singh
(M.M. SINGH) 207
Administrative Member