

NO
Transfer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 327 of 1992
T.A. No.

DATE OF DECISION 30th November 1992

Shri K. G. Piparia Petitioner

Shri K. C. Bhatt Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

Vice Chairman

The Hon'ble Mr. R.C. Bhatt

Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

K.G. Piparia
Near Dudhrej Fatak
Surendranagar- 363 001

Applicant.

Advocate Shri K. C. Bhatt

Versus

1. Union of India through
The Director General,
Department of Posts,
Ministry of Communication,
New Delhi 110 001.
2. The Postmaster General,
Rajkot Region, Rajkot 360 001.
3. The Supdt. of Post Offices,
Surendranagar Division,
Surendranagar - 363 001

Respondents

Advocate Shri Akil Kureshi

J U D G E M E N T

In

O.A. 327 of 1992

Date : 30-11-1992

Per Hon'ble Shri N.V. Krishnan Vice Chairman.

Shri K.C. Bhatt for the applicant.

Shri Akil Kureshi for the respondents.

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the pattern of the Incentive Bonus Examination. The applicant was eligible to appear in that examination and admittedly, he also passed the examination and thus became entitled to get the allowance of Rs. 60/- per month for doing Saving Bank work.

2.4 According to the letter Annexure A-2, only those persons should be admitted to the Aptitude test who would be in a position to work for period of five years. This condition is in conformity with para 5 of Annexure A-1 as reproduced in para 2.2 above.

2.5 The applicant's grievance is that before completing five years in the Saving Bank Branch in Surendra-nagar Head Office, the applicant has been transferred by the impugned order, Annexure A-5 as Sub-Postmaster, Rampura. It is contended that this transfer contravenes the mandatory provisions regarding the tenure of five years.

2.6 It is stated that, in addition to the allowance of Rs. 50/- per month, the applicant earns substantial incentive bonus in respect of work relating to the sale of Indira Vikas Patra, for which Re. 1/- is given for every certificate sold, subject to the maximum of Rs. 500/- per month. Thus, he alleges that the transfer has deprived him of financial benefit of Rs. 560/- per month.

2.7 In this connection with the following allegations has also been made :-

" The Supdt. of Post Offices Surendranagar with malafide intention to give benefit of S.B. allowance and S.B. Incentive Bonus to his persons who are not

even qualified in the examination either aptitude test or in the Incentive Bonus examination, transferred the applicant from S.B. Incentive Branch Surendranagar H.O. to S.P.M Rampura and thereby placed the applicant in heavy loss of S.B. allowance and S.B. Incentive Bonus every month comes to Rs. 560.00 per month."

2.8 The applicant made representation against his transfer ~~to~~ (Annexure A-6), but this was rejected by the 3rd respondent, Annexure A-7.

3. It is in these circumstances that he has filed this application to quash the order Annexure A-5 and the Annexure A-7 order rejecting his representation.

4. The respondents have filed a reply disputing the allegation made by the applicant. They have stated that N.A. Ramanandi, Sub-Post Master, Rampura, expired suddenly on 6-1-1992 and therefore, the applicant had been transferred to that charge in the exigencies of service. It is pointed out ~~that~~ the applicant has never left Surendranagar- Joravar Nagar, from 22-2-1967, both places being part of a Joint Municipality. It is for the first time that the applicant is being posted outside this area after 25 years, and that too, to a place which is also about 25 kms. from Surendranagar. It is contended that the applicant has no vested right to continue on the Saving Bank's Branch section of the Surendranagar, Head Office and that he could always be transferred in the exigencies of service before the period of five years as would be clear from para 8 of the Scheme Annexure A-1, which has been produced by the respondents as

Annexure A-2, which contemplates transfer for a reason other than a completion of tenure. It is also denied that there has been any malice in this transfer

5. We have heard the learned Counsel for the parties and perused the records.

6. At the outset it was pointed out to the learned Counsel for the Applicant that the official against whom malice is alleged should have been impleaded by name separately. That has not been done. The learned Counsel clarified that by malice he meant only violation of the rules and instructions.

7. In these circumstances, this is a case where there is no question of any personal malice behind the impugned transfer order. The learned Counsel for the applicant vehemently contended that the provisions relating to tenure in para 5 of Annexure A-1, reproduced in para 2.2 above gives him the guarantee of five years on this post. He explained that as this is an allowance post it has to be ensured that the benefit of this post is given to the maximum no. of people by rotation. Hence, a five year tenure has been given, before the expiry of which the incumbent should not be transferred at all.

8. We have given our anxious consideration to the interpretation of the provisions regarding the

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tenure. In para 5, in Annexure A.1, the expression used is "maximum tenure". This means two things, firstly, nobody may be retained on these posts for more than five years. Secondly, it means that, ordinarily, one can be continued for five years, ^{but} there can be a tenure of less than five years in the exigencies of service. This is made more clear by the provision in para 8 of Annexure A-1 which makes them liable to transfer, even without completion of tenure. Therefore, though a tenure of five year is ordinarily given, it can always be reduced for administrative reasons.

9. We have no doubt in our mind that the reason for which the applicant was transferred is, undoubtedly, a sound administrative reason.

10. The learned Counsel for the respondent has also rightly pointed out that for the purpose of tenure the applicant's service in Joravarnagar, is also to be counted where he was working on the Saving Banks Side.. If these services are also taken into account the applicant would have almost completed the tenure of five years.

11. We are impressed by this argument of the learned Counsel for the respondents and we are satisfied that the respondents have not curtailed the applicant's tenure drastically or without any reasons. Therefore the applicant's ^{transfer cannot be faulted} ~~tenure could be curtailed~~.

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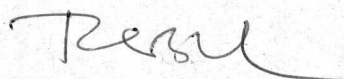
12. In regard to the applicant's contention that unqualified persons are working in the Saving Banks Branch

Surendranagar, the learned Counsel for the respondents clarified that there is no bar to appoint anybody in the Savings Bank Branch in the Head Office, but only persons who are qualified in terms of the Annexure A-1 and Annexure A-2 memorandum will be entitled to get the Saving Bank allowances of Rs. 60/- per month.

13. As regards the loss of income, even if it be correct, it is only an incident of the post held. We have decided that the ~~the~~ applicant did not have a vested right to hold the post at Surendranagar. Therefore, even if there is a loss of income it does not render invalid the Annexure A-5 orders of transfer.

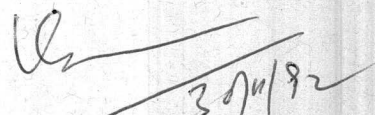
14. Lastly, the applicant is being transferred after he has served in and around Surendranagar for five years.

15. For these reasons, we find that the applicant has not made out any case for our intervention. The application is dismissed.


(R.C. Bhatt)

Member (J)
30th Nov. 1992

*AS.


(N.V. Krishnan)

Vice Chairman.
30th Nov. 1992