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In the Central Administrative Tribunal
Jodhpur Bench : Jodhpur

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Date of Order : 24.12.2002

O.A. NO. 124 / 2002

Gaffur Khan S/o Shri Peeru Khan,
Resident of Village Kotri, Near Charbhuja Manidr,
District Bhilwara,
Presently working on the post of
Sub Post Master, Jhazpur Mandi in
Bhilwara District, Rajasthan.

..... Applicant.

Versus

1. Union of India through
Secretary, Ministry of Communication,
Department of Post Offices,
Dak Bhavan, New Delhi.

The Post Master General (S.R.) ..
Ajmer Rajasthan at Ajmer.

Shri P.K. Korani,
Superintendent of Post Offices,
Bhilwara Division,
District Bhilwara.

..... Respondents.

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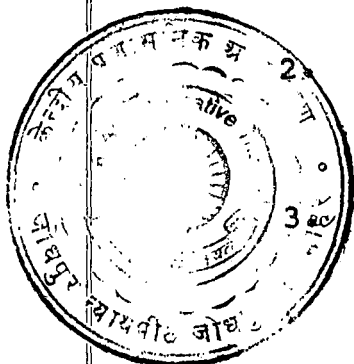
CORAM :

Honourable Mr. J.K. Kaushik,
Judicial Member

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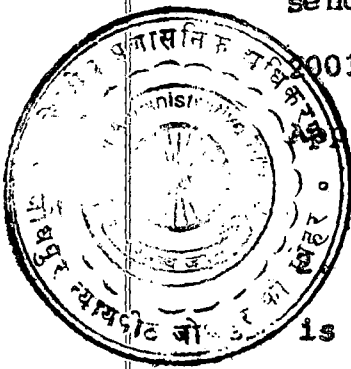
Mr. D.C. Sharma, present for the applicant.
Mr. S.K. Vyas, present for the respondents.

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O R D E RBY THE COURT :

Skipping of the superficialities, the necessary details for resolving the controversy involved in the present case are that the applicant while working on the post of Sub Post Master at Piplund, was transferred to Sub Post Master, Jahazpur Mandi vide order dated 23rd May, 2001 (Annex.A/6). He carried out the transfer order and submitted a representation for considering his posting at Kotri or to any other nearby place. His representation was rejected vide impugned order dated 5th July, 2001 (Annex.A/1) which has been assailed in this Original Application.



The main ground of challenging the impugned order is that the grievance raised in his representation have not been considered at all & number of other persons who even did not request for transfer at Kotri were posted at Kotri neglecting the applicant. The whole action of the respondents is arbitrary and not sustainable in law.

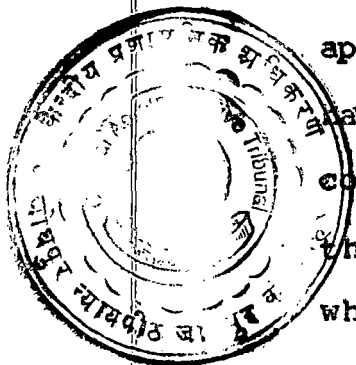
3. A detailed counter reply has been filed on behalf of the respondents and the case has been contested on merits. It has been submitted that the representation of the applicant was duly considered and after due application of mind, the same came to be rejected. It has been submitted that the persons named in the O.A. who were transferred

to Kotri, were in fact transferred on their own request. Even in the case of transfer of Shri S.N. Vaishnav, the transfer was subsequently cancelled. The applicant does not have any genuine ground for the grievance and his OA is frivolous and the same deserves to be dismissed.

4. The case was heard finally with the consent of learned counsel for the parties at the stage of admission.

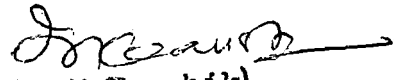
5. I have carefully considered the arguments submitted on behalf of the parties, pleadings and the records of the case.

6. At the very out-set, the learned counsel for the applicant brought to my notice that few additional posts have fallen vacant at Kotri and now, the case of the applicant could very well be considered. He has also submitted that perhaps since he has filed a case before this Tribunal which is pending adjudication, the respondents are scared of the result and seems to be not considering his case against the subsequent vacancies. On the other hand, the learned counsel for the respondents has submitted that he does not have any definite information regarding the subsequent development and the Department would not have any serious objection in considering the case of applicant for transfer on his own request, in case, any such subsequent development has taken place. He, however, submitted that the applicant does not have any case in his favour since the transfer is an incidence of service and it is the prerogative of the administration as to where one should be transferred.



7. In so far as the impugned orders are concerned, it would be pertinent to notice that it is well settled that the question of transfer of a public servant and the further question that it is in the exigencies of service or in the interest of service or public interest, to transfer a particular public servant is to be decided by the competent authorities. The Court will not sit in judgement over the satisfaction of the competent authorities on the point that a certain public servant has to be transferred in the exigencies of service and replace the judgement of the administrative authority by its own findings. This is, however, not to say that there is no scope for judicial intervention in the cases of transfer. The Court or a judicial forum can intervene and set aside the transfer order if the same is found to be mala fide or in the breach of the constitutional provisions/or binding administrative instructions/statutory rules or is capricious and based on extraneous considerations or is a colourable exercise of powers.

8. In the present case, the impugned orders do not suffer from any infirmity or illegality as such, the same do not call for any interference. However, keeping in view the subsequent development in the matter, it is expected that the respondents shall be generous enough to re-consider the matter afresh sympathetically and objectively as early as possible. The O.A. stands disposed of accordingly. No order as to costs.


(J.K. Kaushik)
Judicial Member

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