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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

OA 182/2010

Dated this the 9th day of March, 2011

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HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER

Suresh Chand Chhapera,
S/o Shri Panna Lal, aged 55 years,
Postal Assistant, Head Post Office,
Bhilwara, R/o Near Idgarh,
Sanganer Road, Bhilwara.Applicant

(By Advocates M/s Vijay Mehta and JC.Singhvi)

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Union of India through the Secretary,
Ministry of Communications (Department of Posts),
Sanchar Bhawan, New Delhi.

Superintendent of Post Office,
Bhilwara Division, Bhilwara.

Director, Postal Services, Southern Region,
Rajasthan, Ajmer.

Post Master, Head Post Office,
Bhilwara.Respondents

(By Advocate Mr.M.Godara, proxy counsel for Advocate Mr.Vinit Mathur)

ORDER

Heard both the counsels on the point of admission.

2. Applicant Suresh Chand Chhapera who is presently posted as Postal Assistant Head Post Office, Bhilwara has preferred this Original

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Application seeking quashing of Order dated 30.4.2010 (Annexure. A.1) whereby he has been transferred from Bilwara HO to SPM, Mandal in the interest of service. He has also prayed for quashing of the order dated 5.7.2010 (Annexure.A2) whereby his representation was rejected.

3. During the course of arguments Shri Vijay Mehta appearing for the applicant submitted that the applicant is a heart patient and at least on two occasions he suffered heart attacks and was admitted to hospital and this fact is known to the department and the department has sanctioned advance to the applicant when he was admitted in the hospital in connection with his treatment. He submitted that by the impugned order (Annexure.A1) he has been transferred from Bilwara to Mandal where no ICU facilities are available whereas at Bilwara there is ICU facility. He submitted that in the absence of ICU facility there is every chance that in case of any further heart attack the applicant may not survive. In support of his argument that the applicant is suffering from heart disease, he has placed on record Annexure.A5, Annexure.A6, Annexure.A7, Annexure.A8, Annexure.A9, Annexure.A.11, Annexure. A12, Annexure.A13 and Annexure.A14. He has further submitted that Annexure.A.10 will show that while he was admitted into RNT Medical College, Udaipur for treatment of heart attack his office had sanctioned an advance of Rs. 1,03,500/- in connection with his treatment. He submitted that the above medical prescriptions and certificates as well as the reports of diagnosis establish beyond doubt that the applicant is a heart patient and this fact has not been denied by the

respondents in their reply, rather the same stood admitted as per reply. Learned advocate submitted that as per the instructions contained in letter bearing No.DG(P) No.141-4/97-SPB-II dated 19.2.1997 (Annexure.A15) there is provision for extension of tenure of an employee on health ground or on the ground of his retirement within one year. He submitted that in view of the said provision, the applicant preferred representations (Annexures.A3 and A4) before the authority, but the authority rejected his representations and so he has preferred this Original Application for cancellation of his transfer order on ground of health in the light of instructions contained in the above mentioned letter (Annexure.A15).

4. Learned Advocate appearing for the respondents firstly contended that since the applicant had completed his tenure at Bilwara as such he was transferred to Mandal in the interest of service. However, he conceded that it is not denied by the respondents that the applicant is suffering from heart disease and that an aevance of Rs. 1,03,500/- was sanctioned by the office in connection with the treatment of the applicant while he was admitted in the hospital.

5. From a perusal of documents annexed with the O.A. by way of annexures and after going through the contents of the reply I am satisfied that the applicant is suffering from heart disease and therefore his transfer to a place ie., Mandal where the facility of ICU or proper medical facility for treatment of heart disease is not available, will be fatal for the life of the applicant if he suffers any further stroke. Thus I am of the view that on

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humanitarian ground the transfer of the applicant from Biwlara where at least ICU facility is available, to a place ie., Mandal where no such ICU facility is available should be quashed with liberty to the respondents to transfer the applicant to some other place preferably at Udaipur where facility for ICU as well as treatment for heart disease is available. It is pointed out here that this observation that the respondents are given liberty to transfer the applicant to some other place preferably Udaipur where ICU facility/facility for treatment of heart disease is available is being given on the basis of consent of both the parties.

6. In the result this O.A. is allowed and the impugned order dated 30.4.2010 in respect of the applicant (Annexure.A1) whereby the applicant has been transferred from Biwlara HO to SPM Mandal and the order dated 5.7.2010 (Annexure.A2) whereby his representation for canceling the transfer order has been rejected by the authority are hereby quashed and set aside. However, it is observed that the competent authority will be at liberty to transfer the applicant to any other place preferably Udaipur where the facility of ICU/facility for treatment of heart disease is available.

7. In the circumstances of the case, there will be no order as to costs.

Dated this the 9th day of March, 2011

S.M. Alam
JUSTICE S.M.M. ALAM
JUDICIAL MEMBER

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दिनांक 2/14/16 के आदेशानुसार
मेरी अस्थिति में दिनांक 9/6/16
को भाग-II अ III चल किया गए।

अमृतपाल अधिकारी
केन्द्रीय प्रशासनिक अधिकारण
जोधपुर न्यायपीठ, जोधपुर