

1/0

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH AT JODHPUR**

**Original Application 292/2012**

Jodhpur, this the 23<sup>rd</sup> May, 2013

**CORAM**

**HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)**

Harlal Saini S/o Late Shri Mala Ram, aged about 50 years, R/o House No.12, Sector No.12, Hanumangarh Jn., at present employed on the post of Assistant Superintendent of Post offices, Sub-Division Hanumangarh Jn.

.....Applicant

**Mr. J.K.Mishra, counsel for applicant.**

**Vs.**

1. Union of India through Secretary to the Government of India, Ministry of Communication & Info Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur - 402007.
3. Postmaster General, Western Region, Rajasthan, Jodhpur.
4. The Superintendent of Post offices, Sriganganagar Division, Sriganganagar-335001 (Raj.).

...Respondents

**Smt. K. Praveen, counsel for respondents.**

**ORDER (ORAL)**

The applicant, Harlal Saini, by way of this application has challenged the legality of the order at Annexure- A/4, by which his claim for transfer TA was rejected by the competent authority stating that he was transferred on his own request, therefore, he is not entitled to get the transfer TA.

~

2. The short facts of the case are that the applicant was initially appointed to the post of Postal Assistant on 25.07.1981 and later on promoted to the post of Inspector of Post offices, and in the year 2007 he was promoted as Assistant Superintendent of Post office. The applicant belongs to village Kankariya, Tehsil Khetri, District Jhunjhunu. Due to some family problems, he requested the competent authority vide his letter dated 05.03.2010 to transfer him to Jhunjhunu or any other vacant post at Jaipur. He again, vide his application dated 08.12.2010 and 23.03.2011, requested the competent authority transferring him to Jaipur. Vide order dated 19.05.2011, the applicant was transferred by the respondent No.2 from Dungarpur to Western Southern Region, and consequential orders were passed by the respondents No.3 & 4 on dated 25.05.2011 and 10.06.2011 and he was transferred to Hanumangarh. The applicant submitted his transfer TA bill by treating his move on transfer from Dungarpur to Hanumangarh in the public interest vide letter dated 21.07.2011. But the same has been turned down vide order dated 30.11.2011. The applicant, being aggrieved by the order dated 30.11.2011 (Annexure-A/4), has filed the present OA for the following relief(s):-

- "(i) That impugned order dated 19.05.2011 (Annexure-A/1) passed by 2<sup>nd</sup> respondent, consequential order dated 25.05.2011 (Annexure-A/2), order dated 10.06.2011 (Annexure-A/3), to the extent of the words 'on own request and costs' may be declared illegal and the same may be quashed, accordingly.**
- (ii) That the impugned order dated 27.11.2011 (A/4) may also be quashed and the respondents may be directed to substitute the said word in the impugned orders with the words 'in the interest of service' and make payment of his TA bill amount along with market rate of interest.**
- (iii) That the costs of this application may be awarded."**

3. By way of counter, the respondent department took a special plea that applicant moved an application for his transfer

from Dungarpur to any post in Jodhpur or Jaipur division and after the determination of the vacant posts as per the policy decisions, the officers are being transferred and according to that policy he was transferred to Hanumangarh at his own request, therefore, the applicant is not entitled to get any transfer TA. The fact that he was transferred on public interest has been specifically denied in the counter.

4. Heard both the parties. Counsel for the applicant contended that the averments made in the reply are not correct because Annexure-A/5 does not contain the fact that the applicant may be transferred to any station at Jodhpur or Jaipur Division, and Annexure-A/6 and A/7 also does not refer this fact that he may be transferred to any station of Jaipur or Jodhpur Division. The averments made in the reply are without any evidence on record, therefore, applicant's application deserves to be accepted and he is entitled to get the transfer TA allowance as per Rules, and in no case his transfer can be said to be on his own request, and therefore, the Annexure-A/4 cannot be sustained in the eyes of Law.

5. Per contra, counsel for the respondents while relying upon the counter contended the same arguments that applicant's transfer was made on his own request to Hanumangarh, therefore, his claim for transfer TA was rejected vide Annexure-A/4 and the order at Annexure-A/4 cannot be said to be illegal and against the provisions of Law, and the OA may be dismissed.

X3

6. Considering the rival contentions of both the parties and perused the pleadings available on record. The Annexure-A/5, A/6 and A/7 are the applications which have been filed by the applicant to the competent authorities for his transfer, and in all the three applications, it has been mentioned that he wants his transfer to Jhunjhunu or any other vacant post at Jaipur and the reasons have been mentioned in all the three applications that he wants his transfer on account of illness of his son. Although, in reply the respondent department contended that the applicant requested for his transfer to any place in Jodhpur or Jaipur division. But the averment made in the reply *per se* seems to be incorrect because there has been no request on the part of the applicant to transfer him at any place of Jodhpur or Jaipur division, and the grounds taken by the respondents in the reply are without any base or any document available on record. Applicant cannot be said to be transferred at Hanumangarh instead of Jhunjhunu or Jaipur on his own request and the plea taken by the department is totally against the documentary evidence available on record.

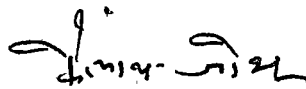
7. In my considered view the claim of the applicant was rejected by Annexure-A/4 without any reason or substance and the plea taken by the department is also inconsistent and without any documentary evidence on record. Therefore, applicant is entitled to get the transfer TA allowance as per rules for his transfer from Dungarpur to Hanumangarh, and the order at Annexure-A/4 passed by the competent authority cannot be sustained and *per se* adversely affecting the right of the applicant in contravention of the natural justice. Accordingly, the order at Annexure-A/4 is quashed

27

1/2

and the respondents are directed to pay the applicant transfer TA allowance for his transfer from Dungarpur to Hanumangarh as per the relevant rules, within a period of three months from the date of receipt of a copy of this order. In case, the respondents fail to make the payment within the stipulated time, then the applicant shall entitle to get interest @18% per annum on the transfer TA amount. The word used in Annexure-A/1, A/2 and A/3, applicant's transfer to be treated as his 'on own request and costs' is also quashed to that extent qua applicant.

8. Accordingly, the OA is allowed as stated above. There shall be no order as to costs.



**[Justice K.C. Joshi]**  
**Judicial Member**

rss