

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.276/2013

Jodhpur, this the 4th day of October, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Fakruddin Nyargar s/o Shri Alabux Nyargar, aged about 50 years r/o Nagori Garden, Back to Fateh Tower, Bhilwara, District Bhilwara, working as Sub Postmaster at Post Office, Bhilwara City.

.....Applicant

Mr. S.P.Singh, counsel for applicant

Vs.

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dar Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur
3. The Director, O/o Post Master General, Western Region, Jodhpur
4. Superintendent of Post Offices, Bhilwara Division, Bhilwara.

...Respondents

Ms. K. Parveen, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

The applicant has filed this OA against the transfer order dated 10.7.2013 (Ann.A/1) whereby he has been transferred from Bhilwara City Post Office to Pur Post Office and prayed for the following reliefs:

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- a. The respondents may kindly be directed to cancel the transfer order vide Memo No. B2/34/Trf/2013 dated 10.7.2013 (Annexure-A/1) forwarded by respondent No.4.
- b. That any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- c. That the costs of this application may be awarded to the applicant.

2. Short facts of the case, as stated by the applicant, are that the applicant was initially appointed as Postal Assistant and after getting promotions from time to time is presently posted as Sub Post Master at Bhilwara Post Office. He has completed 20 years of service and was earlier transferred to Bhilwara from Gangapur on his own request. It is averred that he has not the longest stay since some officials are staying for more than 25 years and frequent transfers of the applicant shows malafide intention of the respondents. As per transfer policy, the tenure of transfer should be four years. It is further stated that the present transfer is made in mid academic sessions and there is no administrative exigency, but the respondents are adopting pick and choose policy, which is against the rules and the judgment of the Hon'ble Bombay High Court in the case of Seshrao Nagorao Umap vs. State of Maharashtra reported in (1985) II LLJ 73. Therefore, aggrieved by the transfer order, the applicant has filed this OA praying for the reliefs as mentioned in para 1 above.

3. The respondents by way of filing reply have denied the right of the applicant and submitted that there were complaints from general public and the administrative offices about working of Shri K.C.Dargar, SPM Pur and keeping in view the complaints Shri Dagar was transferred from Pur to Bhilwara City. Since Shri Dargar was suffering from heart disease and was required to be posted at nearby station where adequate medical facilities

are available as per the decision of CAT-Jodhpur Bench in OA no.125/2011 on 26.9.2011, therefore, Shri K.C.Dargar has been posted in place of the applicant and the applicant was transferred to Pur which is enroute to his native place and is hardly 10 Kms away from the present place of posting. The applicant has been transferred locally in the interest of service vide Memo dated 10.7.2013. It is further stated that the applicant has option to submit representation to the Director, Postal Service, Rajasthan, Southern Region, Ajmer but he has not exhausted the departmental remedy for redressal of his grievance as required under the Administrative Tribunals Act, 1985 and filed the present OA. The respondents have submitted that as per the law laid down by the Hon'ble Supreme Court, the transfer policies are merely guidelines and the same do not deprive or deny the competent authority to transfer a particular official to any place in public interest and as necessitated by the exigency of service.

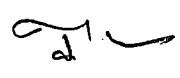
4. Heard the counsel for both the parties. Counsel for the applicant contended that the applicant is working as Sub Post Master and has been transferred from Bhilwara Post Office to Pur Post Office on account of complaint against Shri K.C.Dargar who was working as Sub Post Master, Pur and also that Shri Dargar is suffering from heart disease and was required to be posted at nearby station where adequate medical facilities are available. The counsel for the applicant further contended it is settled position of law that on account of adjusting someone else, one cannot be punished by way of transfer and therefore, transfer of the applicant from Bhilwara to Pur amounts to punishment, and the order Ann.A/1 is liable to be quashed.

5. Per contra, counsel for the respondents contended that the applicant has been transferred to Pur which is enroute to native place of the applicant and is hardly 10 Kms away from the present place of posting. The Pur town comes under the Local Nagar Parishad area, as such, the applicant has been transferred locally, and it does not amount to any punishment and it cannot be said that the transfer has been made malafidely. She further contended that applicant has approached this Tribunal only on two grounds that he has been transferred to adjust Shri K.C.Dargar and further that he has not been completed tenure of four years, which are not established in this case.

6. We have considered the rival contention of both the parties and also perused the relevant record. The counsel for the applicant submitted that the tenure of the post is 04 years and it can be extended for two years under Rule-60 of the P&T Manual Vol.III, but, in our considered view, this contention of the counsel for the applicant that the applicant has not completed 4 years' tenure is without any force as that is the upper limit and it cannot be said that Ann.A/1 is not passed in public interest. Moreover, the transfer is very near to his present place of posting and within the Nagar Parishad area. It is settled law that transfer is an incident of service and Tribunal or Courts should not normally interfere in the transfer order unless and until there is an established case of malafide, which we do not find in the present case. Consequently, we are not inclined to interfere with transfer order Ann.A/1 and since the OA lacks merit, therefore, it is dismissed with no order as to costs.



(MENNAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

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