

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCNOW BENCH LUCKNOW.**

ORIGINAL APPLICATION NO: 287/2006

Lucknow this, the 7th day of July , 2006.

HON'BLE SHRI. P.K CHATTERJI MEMBER(A)

Shri K.N. Singh (Kedar Nath Singh) LSG Standard since 30.11.1983 S/O Ram Prasad Singh R/o Village & P.O. Manudiha (Awaniganj) Faizabad at presen working as SPM LSG Rudauli Since 19.6.2003 (on leave at present).

Applicant.

By Advocate Shri R.S. Gupta.

VERSUS

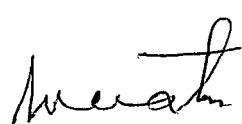
1. **Union of India through the Secretary/Director General Department of Post Dak Bhawan, New Delhi.**
2. **Chief Postmaster General U.P. Lucknow.**
3. **Director Postal Services o/o CPMG U.P.Lucknow.**
4. **Superintendent of Post Offices Barabanki.**
5. **Abdul Hanif S.P.Os. Barabanki.**
6. **Sri Mahmood Ahmad, SPM Rudali.**

Respondents.

By Advocate Shri R.P. Singh for Km. Asha Chaudhary.

ORDER (ORAL)

This O.A. 287/06 has been filed by Shri K.N. Singh. In the Original Application, the applicant has been impugned the orders No. B/PA/arrangement and B-2/21 issued by the Superintendent of Post Offices Barabanki and memo No. STA/7 2004/Barabanki Division dated 15.5.2006 issued by the Chief Postmaster General U.P. Lucknow.



2. The facts of the case briefly are as follows. The applicant says that he was promoted to regular LSG cadre w.e.f. 30.11.1983 and to HSG-II(BCR) cadre w.e.f. 1.1.1993. In support, the applicant has furnished relevant orders at Annexure No. 3 and 4. The applicant has further stated that he was posted as SPM Haidergarh LSG Norm based Post Office vide order dated 27.5.1994. Thereafter, he was transferred to Rudauli Post Office as SPM LSG which is also is a norm based LSG post in the year 1997 and in the same continuation he was again posted to LSG Norm based post of SPM Rudauli vide order dated 16.6.2003.

3. It has also been alleged by the applicant that by transferring him from the Post of SPM Rudauli, official junior to him in LSG cadre has been posted. In his detailed reasoning in the O.A., the applicant has stated that there was scope for the respondents to accommodate him in the same post after taking care of all the requirements of the seniority in LSG cadre. Learned counsel for respondents could not contradict this. The applicant's retention was necessary in view of the fact that he is due to retire from service on 28.2.2007 which is less than one year from now and therefore, as per circular of the department vide No. 141-4/98SPB dated 7.12.1998 officials who has one year or slightly more service to retire on superannuation is exempted from transfer. A copy of the order is annexed as Annexure No. 11.

Mesah —

4. The case was taken up for hearing on 29.6.2006 in which the Tribunal directed the respondent No. 1 to 4 to produce the relevant records showing that the transfer of the applicant was on request. The case was taken up by the Division Bench on 4.7.2006 in which the respondents sought time for filing the documents and the Tribunal directed that the case be taken up for hearing on 7.7.2006.

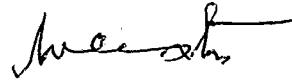
5. However, till date neither the documents nor any C.A. has not been furnished. The learned counsel for the applicant Shri R.S. Gupta strongly argued that the respondents would not be able to produce any such documents, as non existed. The respondents have not availed of the chance of submitting their arguments nor have they stated any where that for particular reasons it was not possible to exempt the applicant from transfer although he had less than a year before retirement. The learned counsel for the respondents could not controvert the points of the learned counsel for applicant nor could he throw any other light relevant to the issue.

6. After hearing learned counsel for the parties it is decided as follows. In the last hearing dated 27.6.2006 it was directed that Mrs. A. Chaudhary learned counsel for the respondents shall produce relevant record showing that the transfer of the applicant was on his own request. Inspite of giving some time to the respondents this has not been complied with. Learned counsel for the applicant who has strongly argued that the applicant's transfer was never made on his request as the applicant has never made any application for his transfer. He has also brought to my notice

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the circular No. 1241-4/98/SPB-II dated 7.12.1998 with certain norms, which stipulates that official who are going to retire shortly within a period of one year should be exempted from promotion. In the light of this clear instruction and also in view of the facts that the respondents could not produce any evidence that the applicant was transferred at his own request and also in view of the fact that the respondents could not produce any other evidence that the applicant was transferred in the exigencies of service or due to serious misconduct and that no request has been made for filing Counter-Affidavit opposing the contention of the O.A. so far, the order of transfer of the applicant dated 23.5.2006 is hereby quashed. The respondents are directed to issue appropriate order in compliance thereof.

7. The O.A. is disposed of accordingly with no order as to costs.


(P.K. Chatterji)
Member(A)

V.