

AM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

O.A. NO. 145/90 (L)

| | | |
|-------------------------|--------|---------------|
| Radhey Mohan Saxena | | Applicant. |
| | Versus | |
| Union of India & Others | | Opp. Parties. |

Hon. Justice Mr. K. Nath, V.C.
Hon. Mr. K. Obayya, A.M.,

(By Hon. Justice Mr. K. Nath, V.C.)

This application under Section 19 of Administrative Tribunals Act, 1985 is for quashing the order dated 20.1.1990 contained in Annexure-A6, whereby, the applicant was posted in consequence of transfer order (Annexure-A4) dated 5.1.1990. There is also a prayer for a direction to the opposite parties to allow the applicant to work on the post of Head Clerk in the Time Office.

We have heard the learned counsel for the applicant. Annexure-A4 is a transfer order dated 5.1.1990 which says that the applicant, Head Clerk in the Time Office, is transferred to the Production Section. Annexure-A6 is the impugned order dated 20.1.1990 which mentions that the applicant, Head Clerk in Time Office, will join in the Production Section.

The applicant has two grievance. In the first place it is pointed out that the post to which he has been transferred in the Production Section is not indicated in the transfer order. The statement in Para-6(13) of the application is that while there are 18 post of Head Clerk in Time Office of which 7 posts are lying vacant, in the Production Section there are only 7 posts of Head Clerk which are all full and therefore, it could be stated that the applicant was transferred on the same cadre and rank

not
in

(AS)

in the Production Section which he had held in the Time Office. The second grivance is that in original transfer order (Annexure A4) dated 5.1.1990 the concerned authority has recorded that all the concerned officials must be relieved from the respective posts without any delay and in that connection no appeal or argument would be entertained.

The learned counsel for the applicant says that in this manner not only the transfer order constitutes the applicant's reduction in rank, but he has also been prevented from making any representation against the transfer. In our opinion, both the contentions are mis-conceived. The applicant, having been holding the post of Head Clerk in the Time Office is presumed to be posted ~~there~~ on an equivalent post in the Production Section in the absence of any indication that he is appointed to the same or some other post. The fact that all the 7 posts of Head Clerks in the Production Section are already full, does not necessarily stand in the way of the applicant's being posted as Head Clerk because on the applicant's own statement there are 7 vacant posts of Head Clerk in the Time Office and nothing could prevent the competent authorities to transfer one of those posts to the Production Section.

The embargo on the lodging of any appeal or submission of any argument, strictly speaking, relates to the official being relieved. It does not extend to the order of the transfer itself. Moreover, it is not open to any authority to shut any representation or appeal as permissible under the rules. We are not satisfied, therefore, that the remark contained in Annexure-A4 prevents the applicant from making any representation against his transfer from Time Office to the Production Section and to point out that all the posts of Head Clerk in the Production Section are already full and therefore, he is not in a position to appreciate on what post he has to join.

Ph

46

We are of the opinion that the applicant can make representations on these grievances to the competent authorities which passed the order contained in Annexure-A4 & A5 or else to the next higher authority.

This petition is disposed ^{of} with the observation that the applicant may make a representation to the competent authority in the light of the above at the earliest and the competent authorities shall dispose of the same within ~~the~~ a period of one month from the ~~from the~~ date of receipt thereof.


ADM. MEMBER.


VICE CHAIRMAN.

Dated: 2.5.1990

sd.