

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 474/2003.

this, the 14th day of October 2003.

HON. MR. R.K. UPADHAYA MEMBER(A)

Kunj Bihari Srivastava, aged about 57 years, son of Late V.P. Srivastava, at present working as Superintendent of Post offices, Hardoi.

....Applicant.

(BY ADVOCATE SHRI SURENDRAN P.)

VERSUS

1. Union of India through the Secretary, Department of posts, New Delhi.
2. Director General, Department of Posts, New Delhi.
3. Chief Post Master General , U.P. Circle, Lucknow.
4. Post Master General, Bareilly Region, Bareilly.

...Respondents.

(BY ADVOCATE SHRI S.P. SINGH)

ORDER (ORAL)

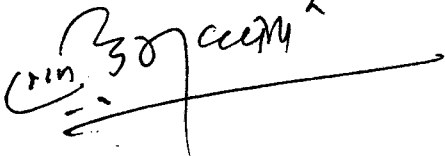
BY R.K. UPADHAYAYA MEMBER(A)



This fresh application challenging the order of transfer dated 8.10.2003 Annexure No. 1 has been taken up at the request of learned counsel of the applicant.

2. It is stated that the applicant was posted as Superintendent of Post Offices, Hardoi, and he has been transferred <sup>a</sup> as Senior Post Master, Baharanpur. The grievance of the applicant is that he is being transferred very frequently. In para 4.4 <sup>a</sup> of the Original Application, the applicant has stated that within a period of 3½ years, he has been transferred to 7 places contrary to the provisions of P&T Manual Volume.IV. The applicant has moved a representation dated 10.10.2003 (Annexure No. 2) <sup>a</sup> addressed to the Post Master General, Bareilly region requesting for cancellation of transfer order. In this representation, it has been stated by the applicant that frequent transfers had adversely affected his health and the education of children and his family life is spoiled. According to, the learned counsel of the applicant, a copy of this representation has also been served to the Chief Post Master General, U.P. Circle, Lucknow, but no decision has been communicated to the applicant, either by P.M.G. Bareilly region or C.P.M.G. U.P. Circle, Lucknow.

3. The learned counsel of the respondents who is present in the court sought adjournment to file reply to the Original Application filed by the applicant. He also wanted further instructions in the matter of the respondents. The learned counsel of the respondents brought to notice of this Tribunal that in pursuance to the transfer order dated 8.10.2003, Shri R. N. Gupta who has been transferred in place of the applicant has already joined at Hardoi on 9.10.2003. It was also stated that the order of transfer is on administrative grounds and after the joining of the person, transfer <sup>red</sup> in his place, this O.A. has almost become

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infructuous. Besides, Shri R.N. Gupta has also not been impleaded as a party in this Original Application.

4. In this case, it is felt that interest of justice will be fully met by <sup>the</sup> ~~the~~ issuing directions even without awaiting reply of the respondents. This is so because, the applicant who is aggrieved by the impugned order of transfer dated 8.10.2003 <sup>has</sup> ~~made~~ made a representation as soon as he came to know about his transfer. The learned counsel of applicant during the course of arguments, stated that officially, applicant has not even received the copy of transfer order and the representation made by him is still pending for consideration of respondents. Prima-facie, frequent transfers are not desirable. This ~~is~~ <sup>is</sup> not only reduces the out put of the Government Servant, but also affects his health and members of family dependant on the Government servants are also put to avoidable inconvenience. Ofcourse, this Tribunal cannot sit as an appellate authority over the administrative orders of respondents. It is also accepted position of law that transfer is an incidence <sup>of</sup> service and the respondents are free to take work from their employees by giving them suitable placement. However, on the facts as stated in the O.A., it appears that the applicant in this case, is subjected to frequent orders of transfers, <sup>therefore,</sup> it is desirable that the matter is fully examined by respondent No. 3. The applicant is directed to serve a copy of the O.A. as well as a copy of the representation already made within one week of receipt of this order to respondent No.3 C.P.M.G., U.P. Circle Lucknow for his/her consideration.

4. Respondent No. 3 is directed to take a decision in the

C. B. Bhatnagar

matter as early as possible. In case, the respondent No. 3 decides to reject the representation of the applicant, the same may be communicated to him by speaking and reasoned order within a period of one month from the date of receipt as directed earlier. However, the respondent No. 3 will be at liberty to consider the request of the applicant for adjustment to a place of his <sup>choice</sup> ~~joining~~ if there are vacancies ~~are~~ <sup>a</sup> available. Needless <sup>to</sup> reiterate that frequent transfer need not be resorted to as a matter of punishment. <sup>by</sup> If there are sufficient grounds for taking action against the applicant that can be taken separately and not <sup>h</sup> transfer to another station.

5. It is informed by the learned counsel of the applicant that the applicant is on leave, <sup>T</sup>Therefore, he need not be compelled to join the place of posting before a decision on his representation is communicated to him.

6. In view of the above, this Original Application is disposed of at the admission stage without any order as to costs.

Copy of this order be given to counsel for the parties today.

  
MEMBER(A)

LUCKNOW: DATED: 14.10.2003.

V.