

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

ORIGINAL APPLICATION NO.294/2006
This the day of 02/8/06 August 2006.

HON. MR. M. KANTHAIAH, MEMBER (J)

A.K. Shukla, son of Late K.K. Shukla, at present working as Postal Assistant (TBOP), G.P.O., Lucknow

... Applicant.

By Advocate: Shri Surendran P.

Versus.

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Director of Postal Service (HQ), office of CPMG, U.P. Circle, Lucknow.
4. Chief Post Master, G.P.O., Lucknow.

... Respondents.

By Advocate: Shri D.S. Tewari.

ORDER

BY HON. MR. M. KANTHAIAH, MEMBER (J)

This is the application filed by the applicant to quash the transfer orders issued by Respondent No.2 dated 13.6.2006 annexed at Annexure-1, transferring him from G.P.O. Lucknow region to Bereilly region on the following grounds:

- i. That the transfer order Annexure-1 dated 13.6.2006 by Respondents No.2, transferring him from G.P.O. Lucknow region to Bereilly region is against the direction of Annexure - 2 D.G. Post letter dated 2.3.2000 and Annexure-3 dated 1.7.2000 issued by Respondent No.2.
- ii. No specific reason has been assigned for transferring him from one region to another as required under Annexure-2.

iii. *Transfer out side the region should be done with the concurrence of the head of Circle i.e. but no such concurrence obtained for his transfer.*

iv. *Some of the transfers of his collages have been effected considering their requests on the ground of family problems and merit criteria and not considering his request on medical ground shows that the respondents adopted pick and choose method.*

2. Shri R.K. Pal, A.P.M.G. (Staff)-office of the Respondent No.2, filed Counter Affidavit on behalf of Respondent No. 1 to 4 stating that the transfer of the applicant from Lucknow region to Bereilly region was due to exigency of Government service within the rules by the Competent authority as no vacancy has been available in the Lucknow region in P.A. S.P. C.O. Cadre. He denied there was pick and choose policy adopted while transferring the applicant and his colleges and stated that Shri A.K. Srivastava who has been brought from Gorakhpur Region to Lucknow region and Shri Subash Chandra by considering the long period of working out of Lucknow region since more than 25 years and the case of Shri L.N. Ashmi was considered on merits with humanitarian grounds as the daughter of Shri Ashmi is mentally retarded and studying in the school of mentally retarded children. He further stated that the director of the Postal services Head Quarter office of CPMG, U.P. Circle, Lucknow is competent to transfer the SBCO Posts and in respect of the ill health of applicant, it requires expert opinion and thus, opposed the claim of the applicant for quashing the transfer order covered under Annexure-1 dated 13.6.2006 under which he was transferred out of Lucknow region to Bereilly region against a vacant post.

3. Heard both side advocates.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The admitted facts of the case are that the applicant who has been working in Lucknow G.P.O. since 2002 working as P.A. in SBCO Lucknow region since 16.3.2004. As per Annexure-2 D.G. Posts letter dated 2.3.2000, rotational transfer of SBCO Staff are made, two- three HPOs are grouped together and transfer of staff made SBCO Staff to such Group of HPO after they complete their prescribed tenure. It also shows that any transfer out side the region only done with the concurrence of the Head of Circle and on specific administrative grounds. On the basis of the direction contained in Annexure-II, 2nd Respondents grouped all the Head Post Offices (HPO) and units of SBCO of Lucknow into three regions as under:-

Group-1 consists of (i) Lucknow GPO (ii) Lucknow Chouck HPO (iii) Circle Paring Unit Lucknow (iv) Barabanki HPO and (v) Sitapur HPO. Group No.3 includes (1) Raibareilly HPO (ii) Lalganj HPO and (iii) Sultanpur HPO, whereas group-2 consist of (i) Faizabad HPO (ii) Akberpur HPO and (ii) Sultanpur HPO. Annexure-3 reveals such grouping of HPOs in Lucknow region. The applicant also made as application dated 12.4.2006 covered under annexure-7 and also representation dated 23.6.2006 covered under Annexure-8 for his retention at Lucknow GPO or CPU, Lucknow for one year on the ground of ill health and in connection of education of his three children. Annexure-1 is the impugned transfer order dated 13.6.2006 under which the applicant has been transferred from GPO, Lucknow region to Bareilly region against vacant post.



6. In view of the rival contention of the parties, the following are the main points framed for discussion.

i). Whether the Second Respondents is competent to issue transfer order of the applicant, by transferring him from one region to another.

ii). Any specific reasons are required for transfer of the applicant and such compliance is there is transferring the applicant from Lucknow region to another region.

iii). Non-considering the request for transfer of the applicant on medical grounds and education of his children causes any prejudice.

iv). To what relief.

7. Points 1 & 2:- Both the points are connected with each other and as such dismissed in common. It is the main contention of the applicant that under Annexure-2 letter dated 2.3.2000 the respondents had grouped 2 or 3 H.P.Os as one group and SBCO Staff be transferred to such group of H.P.O. after they completed their prescribed tenure. It also says that the H.P.O. grouped together should be as far as possible within a division and if not within the region. IT further says that any transfer outside a region should be done only with the concurrence of the Head of Circle and on specific administrative grounds only. Basing on Annexure-2 D.G. Posts letter dated 2.3.2000 , 2nd Respondent regrouped H.P.Os and unit of SBCO of Lucknow region into three groups. The present working place of Lucknow G.P.O. of the applicant falls within the Group-I, whereas he has been transferred to Bereilly H.P.O., which is in Group-III region. From these documents, it is clear that applicant has been transferred from one region to another, but within Group-I H.P.Os.



8. Further, Annexure-2 D.G. Posts letter dated 2.3.2000 also reveals that any transfer outside a region should be done only with the concurrence of the head of circle and on specific administrative grounds only.

9. Admittedly the transfer order of the applicant covered under Annexure-1 dated 13.6.2006 is issued by the 2nd Respondents transferring him from G.P.O. Lucknow region to Bereilly region against vacant post and no reference or reason has been assigned for such transfer from one region to another. Similarly the transfer orders also does not refer any concurrence has been given by the head of the circle in transferring the applicant from one region to another region as required under Annexure0II D.G. Post letter dated 2.3.2000.

10. Though the Respondents contended that the transfer orders covered under Annexure-I are made by the competent authority, no such proceedings or orders are filed to show that 2nd Respondent is the competent authority to effect interregional transfers to P.A. SBCO cadre. Similarly the respondents have failed to produce any of the orders or proceedings that 2nd Respondent had obtained concurrence of head of circle, and Annexure-1 orders also does not speak of any such concurrence of head of the circle. As such the applicant in justified questioning the transfer.


11. Coming to the second limb of the requirement in D.G. Posts letter dated 2.3.2000 (Annexure-2), in respect of Point-2, that the transfer outside region should be done on specific administrative grounds, but no such grounds are there, in transferring the applicant from one region to another, which also shows that there is no justification in transferring the applicant to another region. The above circumstances also shows that the respondents neither followed D.G.



Posts letter nor given any valid reasons for transferring the applicant from one region to another.

12. In view of such non-compliance of D.G. Posts letter dated 2.3.2000, (Annexure-2), transfer order issued by 2nd Respondent, transferring the applicant from Lucknow G.P.O. (Group-1) to Bareilly H.P.O. (Group-III) is not at all valid and as such the applicant is justified in questioning and also asking for quashing transfer order dated 13.6.2006 transferring him from G.P.O. Lucknow region to Bareilly region. Thus both these points are decided in favour of the applicant and against the Respondents.

13. Point 3:- It is the case of the applicant that he has been suffering with fatty infiltration of liver and post void residual urine of 15 ml, which needs prolonged and special treatment which is available in Lucknow only. In support of it, he filed medical reports and prescriptions, which are Annexure-4, Annexure-5 and Annexure-6. He also further contended that his children are studying in Lucknow. Basing on such the grounds, the applicant made request to the Respondent for his retention at Lucknow G.P.O. or G.P.O. Lucknow for one year covered under Annexure-7 dated 12.4.2006 and Annexure-8 dated 23.6.2006. the Respondent without obtaining any expert opinion of ill health's condition of the applicant and required treatment, simply issued transfer orders on the ground of exigencies of service is also not at all correct. It is also the duty and responsibility of the respondents department, to see the welfare of its employees and whether he has been suffering with any ailment and it requires any special treatment. Thus transferring the applicant from one region to another without considering his request on medical grounds also a justified ground to question his transfer, hence this point is also decided in favour of the applicant.



14. Point No.4:-Point No.1 to 3 are decided in favour of the applicant. The applicant also made allegation against Respondents that they have adopted pick and choose method in considering the request of other employees who are not parties in this case and not considered his request for retention. In the Counter-Affidavit, the respondents have given reasons for transferring Shri L.N. Ashmi, A.K. Srivastava and Shri Subash Chandra , and as such going into the merits of such transfers, without being their presence here is not at all desirable, hence no findings are required on such transfers of above colleagues employees of the applicant and its merits.

In view of the above circumstances, the applicant is justified in questioning his transfer from G.P.O. Lucknow region to Bareilly region and as such the transfer orders dated 13.6.2006 (Annexure-1) effecting the transfer on the applicant is set-aside with a direction to the respondents to accommodate the applicant within G.P.O. Lucknow region and thus the application is allowed. No costs.


(M. KANTHAIAH)

2.8.06

MEMBER (J)

/amit/