

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.380/2007
This, the 3rd day of April 2008

Hon'ble Mr. M. Kanthaiah, Member (J)

Syed Abbas Raza, aged about 49 years, son of Sri Syed Husain Raza, at present working as Postal Assistant, Central Pearing Unit, New Hyderabad, Lucknow.

Applicant.

By Advocate Shri Surendran P.

Versus

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. The Chief Post Master General, U.P. Circle, U.P., Lucknow.
3. Director of Postal Services, Lucknow Region, Lucknow.
4. Chief Supervisor, CPU, New Hyderabad Post Office, Lucknow.

Respondents.

By Advocate Shri S.K. Singh.

ORDER

By Mr. M. Kanthaiah, Member (J)

The applicant has filed this Original Application under Section 19 of the Administrative Tribunal Act, 1985, with a prayer to quash the transfer order Dt. 29.06.2007 (Annex-1) and continue him in the present place as Postal Assistant, Central Pearing Unit, New Hyderabad, Lucknow on the ground that his transfer to Sultanpur is not at all correct and further, the reasons given for his transfer is in violation of Article 15 of the Constitution.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that no violations are there in transferring the applicant to Sultanpur under Annex-A-1 and thus, justified their action.

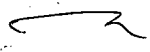
3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the applicant and also reiterating his pleas in the OA along with Annex-R-1 to R-4.

4. Heard both sides.

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

6. The admitted facts of the case are that the applicant has been working as Postal Assistant in Saving Bank Control Organization (SBCO) CPU at Lucknow since 08.06.2005. He has been transferred under the impugned order Dt. 29.06.2007 (Annex-1) from CPU, Lucknow to Sultanpur, which is within 2 years. It is not in dispute that the post of Postal Assistant, SBCO is a tenure post of four years and Annex-1-A Dt. 11.10.1966 reveals the same. As per the seniority list, (Annex-3), the name of the applicant is at Serial No.403 whereas, the Lady Postal Assistants Smt Shika Srivastava is at Serial No.468 and Smt. Ranjana Srivastava is at Serial No.423. Immediately, after the impugned transfer order the applicant has made a representation covered under Annex-A-4 Dt. 03.07.2007 for cancellation of his transfer but the same was rejected subsequently.

7. In pursuance of D.G. Post letter Dt. 03.03.2000, the respondents No.2 regrouped all the Head Post Offices of Lucknow region in three groups vide order Dt. 01.07.2000 and CPU, Lucknow comes within Group-1 whereas, Sultanpur falls within other group but not Group-1. Annex-R-1 and R-2 reveals the same. After the transfer of the applicant



from CPU, Lucknow, Sri S.K. Misra has been posted at CPU, Lucknow vide transfer order covered under Annex-R-3 Dt. 30.10.2007 and Sri Sunil Srivastava has also been posted to CPU, Lucknow vide transfer order covered under Annex-R-1 Dt. 01.11.2007. The respondent authorities have affected the transfers of the applicant on specific grounds which they mentioned in Annex-1 Dt. 29.06.2007 as under.


I. In the interest of services.

II. Junior most in CPU, Lucknow

III. Due to abolition of one SBCO post in CPU, Lucknow.


8. But the applicant denied such grounds as baseless and challenged the impugned transfer order on the ground that he is not junior most officer in CPU, Lucknow and there was no abolition of post in CPU, Lucknow and also stated that his tenure has not been completed and thus, stated that he has been transferred illegally and arbitrarily. He also further contended that some of his juniors are not affected with transfer and even after his transfer Sri S.K. Misra and Sri Sunil Srivastava has been transferred to CPU, Lucknow and thus attributed motives stating that the respondent authorities have transferred him discriminatory and arbitrary.

9. Admittedly, Annex-A-2 is the seniority list, in which the name of the applicant has been shown at serial no.408 whereas, Smt Ranjana Srivastava and Smt. Shika Srivastava shown at serial no.423 and 468 respectively, which itself shows that both are junior officers than the applicant and they have not affected with any transfer from CPU, Lucknow Region and there is explanation for not transferring them on the ground of women.



10. It is one of the ground of the respondents in the transfer orders covered under Annex-A-1 that the applicant has been transferred as junior most officer (except lady officers). From this, it is clear that the respondents have not touched the transfer of the lady officers though they have been listed as still juniors to the applicant. The learned counsel for the applicant argued for not effecting the transfer of juniors who are lady officers and giving exemption to them is nothing but discrimination amongst the member of same class of employees, which is in violation of Article 15 (I) of the Constitution of India. But under Article 15 (3) of the Constitution of India, when the state empowered for making any special provision for women and children, it is not open to the applicant to challenge such exemption given to lady officers by the respondents, in effecting the transfers. Thus, there is no merit in such objection of the applicant for not effecting the transfers of his juniors officers, who are lady officers.

11. Another ground for transfer of the applicant was due to abolition of post in CPU, Lucknow. Admittedly, the applicant has been transferred from CPU, Lucknow to Sultanpur under Annex-A-1 Dt. 29.06.2007 as one of the ground. Subsequently, the respondents also affected transfer of some of the officers of the same cadre i.e. Sri S.K. Misra and Sri Sunil Srivastava and posted them to CPU, Lucknow covered under Annex-R-3 Dt. 31.10.2007 and Annex-R-4 Dt. 01.11.2007 respectively. If there is any truth in the ground for transferring the applicant from CPU, Lucknow to Sultanpur on the ground of abolition of post, how the respondents accommodated two officers from other regions to CPU, Lucknow by way of subsequent transfer orders and such acts of the

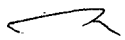


authorities itself falsify such stand taken by the respondents on the ground of abolition of post in CPU, Lucknow.

12. Further, the Counter Affidavit filed by the respondents also clearly shows that altogether eight posts of Postal Assistants, SBCO in Lucknow Region have been abolished, in which one post from CPU, Lucknow and other post of Sultanpur and from this it is clear that one post of Sultanpur was also abolished along with Lucknow post. If any of the post of CPU, Lucknow has been abolished there is justification in transferring the applicant from Lucknow, but here one of the post of Sultanpur had also been abolished and in such circumstances, how the respondents are justified to transfer the applicant to Sultanpur and the reasons given by the respondents for transfer of the applicant on this count is also not convincing and also not sustainable for effecting the transfer of the applicant.

13. The impugned order covered under Annex-A-1 also shows that they have affected the transfer of the applicant in the interest of service but they have not furnished any of the reasons except stating that the applicant has been working at Lucknow for the last 18 ½ years whereas, other juniors are posted at Lucknow recently and most of their service was at other places. It is also not their case that the applicant has completed his tenure. When the respondents have furnished reasons for affecting the transfer of the applicant in the impugned order, without mentioning such ground it is not open to the respondents to take such stand of in the interest of service subsequently and thus the same is also not a justified ground.

14. In view of the above circumstances, most of the reasons given by the respondents for transferring the applicant from CPU, Lucknow to



Sultanpur covered under Annex-A-1 is not at all sustainable and as such, the applicant is justified in questioning the validity of such order passed by Respondent No.2 and further he has not completed his tenure and as such his claim has to be allowed.

In the result, the impugned transfer order Annexure-A-1 Dt.29.06.2007 under which the applicant has been transferred from CPU Lucknow to Sultanpur is quashed and thus OA is allowed. No costs.


M. Kanthaiah,
Member (J)

30-04-08

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