

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.391/2007
This, the 30th day of April 2008

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

Vidya Prakash Yadav, aged about 46 years, son of Sri Jagannath Prasad Yadav, at present working as Postal Assistant, SBCO, Chowk Head Post Office, 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, U.P., Lucknow.
3. Director of Postal Services, (HQ), Officer of the CPMG, Lucknow.
4. Senior Superintendent of Post Officers, Lucknow.
5. Senior Post Master, Head Post Office, Chowk, Lucknow.

Respondents.

By Advocate Shri A.P. Usmanl.

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), transferring the applicant from P.A. Chowk, Lucknow to Faizabad and continue him in the present place of posting at 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 of India.

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

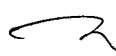
3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the applicant and also reiterating his pleas in the OA along with Annex-R-1 to R-3.

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) P.A. Chowk, Lucknow since June 2003. He has been transferred under the impugned order Dt. 29.06.2007 (Annex-1) from P.A. Chowk, Lucknow to Faizabad, which is about 4 years. It is not in dispute that the post of Postal Assistant, SBCO is a tenure post of four years and it may extent to six years in public interest 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.365 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 Lucknow region in three groups vide order Dt. 01.07.2000 and CPU, Lucknow comes within Group-1 whereas, Faizabad falls within group-II but not Group-1.



Annex-R-1 and R-2 reveals the same. After the transfer of the applicant from P.A. Chowk, 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-4 Dt. 01.11.2007 in O.A.No.380/2007. 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.

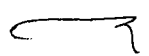
I. In the interest of services.

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 P.A. Chowk, 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.365 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 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 junior 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 P.A. Chowk, Lucknow. Admittedly, the applicant has been transferred from P.A. Chowk, Lucknow to Faizabad 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 in O.A.No.380/2007 respectively. If there is any truth in the grounds for transferring the applicant from P.A. Chowk, Lucknow to Faizabad 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 P.A. Chowk, Lucknow.

12. Admittedly, the present pasting of the applicant i.e. P.A. Chowk, Lucknow fall within Group 0I, whereas Faizabad to which he has been transferred falls within group-II. It is the case of the applicant that such regrouping was made only for effecting the transfers of the employees within their groups only and thus argued that the transfer of the applicant from Lucknow Group-I to the Group-II without any sanction from the competent authority is illegal but the respondents have filed their Counter Affidavit denying the same and also further stated that Faizabad also falls within Lucknow Group and the transfer of such employees can be made within any of the groups of U.P., Lucknow Circle and thus justified such transfer of the applicant. On perusal of Annexure-R-1 and R-2 it clearly shows that Lucknow and Faizabad are in different groups. The respondents have not filed any documents to substantiate their stand that the transfers of the applicants cadre be effected within any of the groups within U.P. Lucknow Circle and also further sanction is required from the competent authority. Thus, there is justification in the arguments of the applicant shifting from one group to other group without any sanction or permission from the competent authority.

13. It is the contention of the respondents that they have effected the transfer of the applicant covered under Annexure-A-1 is in interest of service but they have not furnished any of the specific reasons except pleading that most of the service of the applicant was at Lucknow. But

it is not at all a ground of long standing of the applicant in the impugned transfer order covered under Annexure-A-1. when the respondents have furnished all the grounds of effecting the transfer of the applicant in his transfer order covered under Annexure-A-1 without mentioning the present stand that he was long standing at Lucknow is not at all justified ground.

14. it is the also the case of the respondents that the applicant has been working at Lucknow from 01.07.2003 and by the date of impugned transfer order he has completed 4 years of his tenure. But it is the contention of the applicant that the tenure of the cadre of applicant is six years as per Annexure-1-A. But on the perusal of Annexure-1-A, it is clearly shows that the cadre of the applicant has been fixed only 4 years and Note-2 of it shows that the same may be extended up to six years in individual cases in the public interest by the competent authority. In the instant case there are no such circumstances to seek for extension of such period of 6 years and also no sanction was made by the competent authority for extension of such period of the applicant as such, it is clear that the applicant has completed his tenure period and in such circumstances he is seeking to question impugned transfer order covered under Annexure-A-1 Dt.20.06.2007 is not at all justified.

15. From the above discussion, it is clear that there is no justified grounds in questioning the ground taken for his transfer covered under Annexure-a-1 Dt. 29.06.2007 and further, the applicant has completed his tenure period of 4 years by the date of issuances of transfer order and in such circumstances there are no merits in the claim of the applicant to challenge the said impugned transfer order Annexure-A-1.

but the applicant has been transferred from Lucknow Group-II to another group, which is not permissible and as such the applicant is justified in questioning such action of the respondent authorities.

16. Under the above circumstances, the OA is disposed of with a direction to the respondent authorities to reconsider the case of the applicant in transferring him from PA Chowk, Lucknow to Faizabad, which is an other group of Lucknow Circle and with this direction the OA is disposed of. Three weeks time is granted to the respondent authorities for reconsideration of such posting of the applicant from the date of this order. Till such time, the respondents are directed to maintain status quo as on today. No costs.


M. Kanthaiah,
Member (J)

30-04-08

/amit/