

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

**Original Application No.430/2007**

**This the 2<sup>nd</sup> day of May 2008**

**HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.**

Anurag Mishra aged about 40 years S/o Late P. Mishra R/o 34 Deputy Ganj Moradabad U.P. working as C.O. S.S.B., Jhulnipur, Dist. Maharajganj.

...Applicant.

By Advocate: Shri A.P. Singh.

Versus.

1. Union of India through the Secretary Department of Home, Ministry, Home Affairs, New Delhi.
2. Director General Sashastra Seema Bal, East Block-V, R.K. Puram, New Delhi.
3. Sri Satya Vrat, Inspector General S.S.B. Frontier H. Qr. 11<sup>th</sup> Floor Kendriya Bhawan, Aliganj, Lucknow.

... Respondents.

By Advocate: Shri K.K. Shukla for Respondent No.1 & 2.

Shri Rajendra Singh Respondent No. 3..

**ORDER**

**BY MR. M. KANTHAIAH, MEMBER JUDICIAL.**

The applicant has filed OA under Section 19 of the Administrative Tribunal Act, 1985 with a prayer to quash the impugned transfer order Dt. 05.09.2007 (Annexure-1) under which the applicant has been transferred from Circle Origination Jhulnipur (Maharajganj) to CO, Jamunaha (Bhinga Area on the ground that the same has been effected with malafide and bias intention and to harass him.

2. The third respondent has filed Short Counter Affidavit on his behalf and on behalf of all the respondents, denying the allegations made by the

applicant with a prayer to dismiss the application stating that no merits are there in the claim of the applicant.

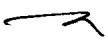
3. The applicant has filed Rejoinder Affidavit denying the stand taken by the respondents and also reiterated his pleas in the OA.

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, who was appointed on 21.01.1998 on the post of Circle Organizer in SSB, has been working as Circle Organizer under Jhulnipur since May 2006. Earlier, he worked in (i). Trinjath Circle (Dist Rajonri) J&K, (ii). Leh Circle (Laddakh), J&K, (iii). Ganganr Circle (Dist. Madhubani) Bihar, (iv). Chakia Circle (Dist. Baharich) U.P., (v). Jhulnipur Circle (Dist. Maharajganj) U.P. Earlier, when he was transferred from Chakia Circle District Baharich, U.P to Jhulnipur, Maharajganj , U.P. on 12.05.2006, he filed O.A. No. 297/2006 questioning the impugned transfer order on the ground that the same was punitive in nature with malafide intention and to cause harassment and mental agony to him, which was disposed of on 18.08.2006 with a direction to the Respondent No.2 therein to look into the grievance of the applicant and to decide the representation of the applicant within a period of 2 months with a liberty to the applicant for making a request for any change of stations. Annexure-A-3 Dt.18.08.2006 is the copy of the said judgment. In pursuance of the said order, the applicant had made a representation giving five of his options for posting. Annexure-4 Dt. 12.10.2006 is the copy of the said representation. But the respondent have not disposed of the said representation is an undisputed fact.

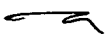
7. Thereafter, the applicant has been again transferred covered under Anneuxre-A-1 Dt. 05.09.2007 from CO, Jhulnipur to CO, Jamunaha along with 19 others on the ground of Public interest. Immediately, the applicant



also made a representation to the authorities covered under Anneuxre-A-6 Dt. 24.09.2007 for cancellation of his transfer and thereafter, he has filed this OA on 01.10.2007. In pursuance of the impugned transfer order, the applicant has been relieved from Jhulnipur Circle on 03.10.2007 and the same is covered under (Page-15 of the Short CA). When there was insistence from the applicant, for stay of the impugned transfer order, this Tribunal declined to grant such relief but issued direction to the respondents authorities to dispose of the pending representation of the applicant covered under Annesure-A-6 within a period of three months from the date of receipt of the copy of this order and upon which, the Respondent No.2 after consideration of the representation of the applicant passed order Dt. 14.11.2007 (page-16 to 18 of the Short CA) with an advice to the applicant to join that his place of posting and resume his duties.

8. The applicant also filed the copy of the transfer Guide lines of the respondent department covered under Annexure-A-5. The applicant made allegations against the 3<sup>rd</sup> Respondent stating that because of his malafide intention, the impugned transfer has been effected and also stating that his earlier transfer was also made at his instance, which is only with an intention to harass him. The transfer of the applicant covered under impugned transfer order (Annexure-A-1) is within the same State and the same Frontier Issued by respondent.

9. It is the case of the applicant that the impugned transfer is a punitive in nature and it has been issued with bias attribute and no public interest or on administrative interest are involved. He also further stated that the impugned transfer order is against the transfer policy and he was transferred in the mid term of education of his children attributing motives and malice against Respondent No.3. The respondents contents that by way of impugned transfer order not only the applicant but 19 others COs have been transferred, who have been reheved and joined at their new stations and the



transfer of the applicant has been effected as per the guidelines of the transfer policy and further nothing is there on record to blame that he has been transferred with any bias and malafide intention. They further stated that applicant has been transferred because of closure of Jhulnipur Circle where he has been working before his impugned transfer order and thus it was necessitated for the authorities for effecting transfer. They also further stated that reorganization of circles and area was an operational requirement and along with the applicant 19 other COs have been transferred by a common order dated 05.09.2007 in a similar circumstances in view of exigency of work for administrative purposes in the public interest due to reorganization area and circles. They also stated that the operational requirement cannot be delay for the sake of individuals for their stay at a particular station.

10. Closure of Jhulnipur circle is not in dispute and in such circumstances, it is not open to the applicant to blame the responders for his transfer to Jamunaha, which is within the same state and same Frontier, on the ground that he has not completed his tenure period. The applicant is justified for attributing any malice, if any other C.O. has been posed in his place of Jhulnipur or that the said circle was not closed.

11. It is the contention of the applicant that the authorities have transferred him without completing his tenure period and also in mid secession of academic year, due to which education of his children will be effected. Admittedly, by way of impugned transfer order not only the applicant but 19 others C.O. have also been effected transfer. Further when his place of posting Jhulnipur circle was closed, attributing of any motives on the ground that the same is against the transfer policy and he has not completed his tenure period and also the transfer is in mid secession of academic year are also not justified grounds to blame the authorities.

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12. The applicant also made allegations against Respondent NO.3 stating that at his instance , he has been transferred with malafide intention to harass him. When the present place of posting of Jhulnipur circle was closed, he has to be shifted to some other place and in those circumstances he has been transferred to Jamunaha circle, which is within the same State and the same Frontier and in such circumstances making of any allegations and attributing any malice against Respondent No.3 is not at all sustainable.

13. In view of the above circumstances, there are no justified grounds to interfere with the impugned transfer order covered under Annexure-A-1 Dt. - 05.09.2007, which was made in Public interest and due to closure of Jhulnipur circle.

In the result, OA is dismissed. No costs.

  
(M. KANTHAIAH)  
MEMBER JUDICIAL

22-05-2008

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