

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 577 of 2005

Date of order : October 28th, 2005

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

Shio Murat Ram, S/o Late Sheo Nath Ram, Superintendent of Post Offices, Aurangabad Division, District Aurangabad.

....Applicant

By Advocate : Shri S.N. Tiwary

Vs.

1. The Union of India through the Secretary, Government of India, Department of Posts, Dak Bhawan, New Delhi. Cum Director General, Department of Posts, India, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle, Patna.
3. Shri A.L. Paswan, Assistant Director of Postal Services, Northern Region, Muzaffarpur.

....Respondents

By Advocate : Shri M.K. Mishra, Sr. Standing Counsel for official respondents and Shri R.K. Choubey for pvt. Respondent.

ORDER

By Sadhna Srivastava, M (J):-

By this original application, the applicant has challenged the order of transfer dated 30.8.2005 (Annexure a/1) by which the applicant has been transferred from the post of Superintendent of Post Offices, Aurangabad Division to Superintendent , Railway Mails 'C' Dn. , Gaya in the interest of service.

2. The facts are that the applicant is a postal Service




Group 'B' officers of 2001 Batch. While he was posted as Lecturer, Postal Training Centre, Darbhanga, he was transferred to Saran Division, Chapra. Therefore, on 31.1.2003, he had been posted as Superintendent of Post Offices, Aurangabad Division. He remained posted at Aurnagabad up to 29.8.2005. By order dated 30.8.2005 (Annexure A/1), he has been transferred to Gaya. The applicant has challenged the transfer order on the ground that (a) the said order has been passed to accommodate respondent No. 3, A.L. Paswan at Aurangabad (b) the same has been passed without following any guidelines provided therefor.

3. The case of the respondents is that the work and performance of the applicant is not at all satisfactory as he was running the Division in irresponsible and inefficient way. After review of his work and performance, it was felt that his transfer was essential in the interest of service. It is alleged in the written statement filed on behalf of the respondents that it was impossible to run the postal Division due to his lack of devotion, competency and accountability. Increasing number of complaints from public side, non achievement of target fixed by the department, and rapidly increasing expenditure in his division and non reply to most of the correspondences in

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spite of series of reminders , both written and telephonic, had paralysed the working of Aurangabad division. Under such circumstances , there was no option except to shift the applicant from Aurangabad at fag end of retirement. It has been urged before me that applicant's home District is Kaimur which falls under the jurisdiction of SRM ' C ' Division, so his transfer to Gaya is very convenient to him. The respondents further alleged that the applicant has all India transfer liability and transfer can be made any time in the interest of service. It is further contended that the applicant has already been relieved and Shri A.L. Paswan (respondent No. 3) has already taken over the charge and working on the post.

4. Heard learned counsel for the parties. The impugned order dated 30.8.2005 (Annexure A/1) has been passed in the interest of service by which the applicant has been transferred from Aurangabad to Gaya. The applicant's plea that his retirement is due shortly, and he has also not completed his tenure of four years at Aurangabad as per the guide lines, has no merit. The guide lines are not mandatory in nature. No doubt, it has to be generally followed but authority competent to transfer, may transfer an employee who has not completed his tenure, if the exigencies of service



or public interest requires or even on administrative grounds. The respondents have indicated as to why and under what circumstances the transfer order dated 30.8.2005 was considered proper in the interest of service. The Tribunal need not go into the question as to whether the transfer is in the interest of service. That would essentially require factual adjudication and invariably depend upon the facts of the case concerned. No Government employee has any legal right to be posted at any particular place or place of his choice. Since transfer is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. It is settled law that unless an order of transfer is shown to be an out-come of malafide exercise or stated to be in violation of statutory provision prohibiting any such transfer, the court or the Tribunals normally cannot interfere. There is no evidence, even prima facie, to show that the impugned order of transfer suffers from malafide. If the competent authority has found it proper for smooth running of administration or in public interest to transfer the applicant from Aurangabad to Gaya, it cannot be termed as illegal merely on the ground that the applicant has not completed his tenure of four years and his retirement is due shortly.

5. Shri S.N. Tiwary, the learned counsel for the



applicant has placed reliance on a decision of Tribunal in Vinod Sahi vs. UOI 1996 (2) SLJ (CAT) 605 to contend that a transfer merely to adjust respondent No. 3 , namely, A.L. Paswan is neither in public interest nor in the interest of service. The submission is clearly without substance. In the said case, the transfer order was passed on the instructions of the high ups to accommodate another employee and no records displaying public interest shown to the court. The decision was, therefore, not applicable to the facts of the present case. The Hon'ble Apex Court in the case of Shilpi Bose & ors vs. State of Bihar and ors (1992 SCC (L & S) 123 has held as under;

" If the competent authority issued transfer orders with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interfered with by the court merely because the transfer orders were passed on the request of the employees concerned".

6. In the case of UOI vs. Janardhan Debanath , 2004 SCC (L & S) 631, the Hon'ble Supreme Court has held that question of transfer is a matter for employer to consider , depending upon administrative necessities not for court to direct one way or other.

7. The learned counsel for the applicant has also



cited two more cases (i) **Sarvesh Kumar Awasthi vs. U.P. Jal Nigam & ors** reported in 2004 SCC (L & S) 523 and another judgment of **Himachal Pradesh High Court** , reported in 2004 (3) A.T.J. 116, **Shobh ram vs. State of H.P. & another**. However, they are not applicable into the facts of the instant case.

8. In view of the facts and discussions made hereinabove, I do not find any ground to interfere with the transfer order. Before I part, I may observe that if the applicant files a representation against his transfer order dated 30.8.2005 (Annexure A/1) , the respondents are hereby directed to decide the same sympathetically. The OA, thus, fails and is dismissed. No order as to costs.


[Sadhna Srivastava] M [J]

/cbs/