

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 446 of 1999.

Dated this Thursday, the 23rd day of September, 1999.

Manohar Mahadev Mahadik, Applicant.

Shri S. P. Kulkarni, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for the
Respondents.

CORAM: Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ? No

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ? No

B. N. BAHADUR

MEMBER (A)

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Dated this Thursday, the 23rd day of September, 1999.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Manohar Mahadev Mahadik,
Postman posted at Mahad,
Dist. Raigad - 402 301.

Residing at -
Head Post Office Mhad,
Karchkhola - 402 301. ... Applicant.

(By Advocate Shri S. P. Kulkarni)

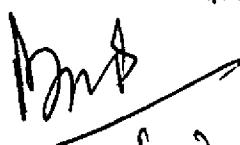
VERSUS

1. Union of India through
The Sr. Superintendent
of Post Offices,
Raigad Division,
Alibagh - 402 201.
2. The Chief Postmaster,
General Maharashtra Circle,
Mumbai - 400 001.
3. The Sr. Supdt. of Post Offices,
Raigad Division,
Alibagh - 402 201. ... Respondents.

(By Advocate Shri V. S. Masurkar)

O R D E R [ORAL]

This is an application made by Shri M. M. Mahadik,
Postman posted at Raigad District seeking the relief that his
transfer should be quashed since it is made at the behest of



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rival Union, out of vendetta. The Learned Counsel on both sides have been heard in detail. They have also been heard today after the case was adjourned as Part-Heard last time.

2. The applicant has stated the facts of his case where he was initially transferred on 09.04.1998. Thereafter it was stayed and again he was transferred. An interim order granting stay was given by this Tribunal on account of which the applicant stayed on at Mhad. Finally, this interim order came to be vacated on 06.09.1999.

3. When the case came up for hearing today, the Learned Counsel for applicant requested for some time on the ground that he has made a request again to the respondents for transfer to some other convenient place and accordingly asked for adjournment. Since a decision in this O.A. will not come in the way of his request being granted by respondents, and since there was no other reason for delaying this case, the arguments were heard ~~closed~~ ^{on both sides,} and this O.A. is being disposed of on merits.

4. As has been stated above, this is a transfer made on administrative ground. Among other things, details have been given regarding some of the actions of the applicant which are not conducive to administrative efficiency, and require that in administrative interest the applicant be transferred. As per

settled law, this cannot come to be reflected as an act of punishment since it is settled that mere shifting even while disciplinary action is pending—for the convenience of administration—is not a punishment. Thus, this transfer comes as an incident of service.

5. There is only one ^{other} ~~one~~ ^{point} ground which needs to be given attention to decide whether the applicant deserves the relief that he is seeking. This relates to the point made by the applicant that he was transferred only because of vendetta of the rival union and that the respondents have taken action to transfer only at the behest of rival union. I have gone through the copies of the various documents filed as annexures by the applicant, specially those at page 54, where this point seems to have been raised by the Union with the Chief Postmaster General. It is nowhere stated that a promise was made that the applicant, M. M. Mahadik, would be transferred. It was only stated by the D.P.S. (M & HQ) that "he will go through the file personally and put up to Chief Post Master General for decision". The arguments of the Learned Counsel that this assertion and the similar one at page 51 can be taken to ^{that the transfer was made at the} behest of the Union, ^{does not hold water} ~~point~~ As stated above, there is no cause and effect relationship.

5. The Learned Counsel for the respondents also produced before me the records of the case in two files, namely – F.MISC/MMM/98 and L/Union Item/98-99. I have gone through the

relevant papers and see no documents which will lead the Tribunal to believe that the transfer came only because of the pressure of the union. Infact, there are some documents which relate to issue of show cause notice for certain action of misbehaviour of the applicant, as stated above. It is seen from the reply of the respondents at para 11 that they have stated that while it was a fact that another Union had been complaining against the applicant, it was however incorrect to say that the transfer was issued out of vendetta. It was issued only in public interest.

6. In view of the discussions made above, it is seen that no case has been made out by the applicant to entitle him to the relief that he seeks. It must however be mentioned here that in case the applicant has made any further applications seeking transfer to some other convenient station, it would be open to the respondents to consider them on merits and in accordance with the rules. The decision in this O.A. will not come in the way of administrative decisions being taken by respondents on the request made by the applicant.

7. In consequence, this application is hereby dismissed. There will be no order as to costs.

B.N.Bahadur

(B. N. BAHADUR)

MEMBER (A).