

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 435 of 1999.

Dated this Thursday, the 13th day of January, 2000.

S. H. Kulkarni,

Applicant.

Shri A. M. Joshi,

*Advocate for the
applicant.*

VERSUS

Union of India & Others,

Respondents.

Shri V. S. Masurkar,

*Advocate for the
Respondents.*

CORAM : Hon,ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?

(iii) Library.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CORAM : Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.

S. H. Kulkarni,
D/S.P.M. Quarter,
T.M.V. Nagar, Gultekadi,
Pune - 411 037.

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Applicant.

(By Advocate Shri A.M. Joshi)

VERSUS

1. Union of India through
The Secretary,
Postal Department,
New Delhi.
2. The Senior Superintendent
of Post Offices,
Pune City East Division,
Pune - 411 037.
3. Smt. S.S. Kulkarni,
D/o. the Sr. Post Master,
Pune City, Pune.

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Respondents.

(By Advocate Shri V.S. Masurkar)

OPEN COURT ORDER

PER : Shri R.G. Vaidyanatha, Vice-Chairman.

This is an application challenging the order of transfer dated 17.12.1998. Respondents have filed reply opposing the application. I have heard the Learned Counsel appearing on both sides regarding admission.

2. The applicant who was working as Sub-Postmaster at T.M.V.Nagar Post Office, Pune, has been transferred as Postal Assistant to the Head Office at Pune. The applicant is aggrieved by this order of transfer. According to him, there was some incident and quarrel in the office between himself and one Mrs. Abhyankar and her father-in-law, Shri B. Abhyankar. The applicant was responsible for cancelling the agency of Mrs. Abhyankar by complaining to the Collector. That the respondents have colluded or sided with Mrs. Abhyankar in transferring the applicant from T.M.V. Nagar to Head Office Post Office at Pune. It is also stated that the applicant has been transferred before he completed three years in the same Post Office. It is also stated that as a result of this transfer, the applicant has to lose the quarter which was attached to the Post Office of T.M.V. Nagar. It is also alleged that the impugned order of transfer is punitive in nature.

3. The respondents while denying the allegations, have justified the impugned order purely on administrative grounds. They have given number of grounds in the reply to justify that the order of transfer was in public interest and in administrative exigency.

4. After hearing both sides and perusing the materials on record, I find that Mrs. Abhyankar's agency has been cancelled. According to the applicant, it was cancelled at ^{his} ~~her~~ instance.

But the Sr. Superintendent of Post Offices, Mr. V.R. Patil, who has filed the affidavit in reply, has asserted that the applicant recommended for cancellation of the agency of Mrs. Abhyankar. Now the question about justification of the order of transfer, we have to see the reasons given by the administration for transferring the applicant from one Post Office to another Post Office at Pune itself. This is not a case of transfer from one station to another station. Both, the T.M.V. Nagar post office and Head Office, are situated in Pune and, therefore, it is a case of transfer from one Post Office to another Post Office in the same city. Hence, it cannot be said that the order of transfer is punitive in nature, as argued by the Learned Counsel for the applicant by relying on the judgement of Bombay High Court reported in 1998 LAB.I.C. 726 (Shamrao Chandrappa Kamble V/s. Deputy Engineer (B&C) Panchayat Samiti, Miraj and Others). That was a case where there was serious dispute and allegations and counter allegations between the transferee official and his boss, namely - the immediate officer, Deputy Engineer. The High Court has gone into that question and in the facts and circumstances of the case, came to the conclusion that it was a punitive transfer and cannot be sustained. The High Court also noticed that in that case the official was a Class-IV official and he was transferred from one station to another station, which was not permissible under the normal rules, unless the competent authority passes an order that for special reasons the official has to be transferred from one station to another station.

In my view, the above decision is not applicable to the facts of the case, particularly, since this is a case of simple transfer from one post office to another post office in the same city.

As far as justification of the order of transfer is concerned, the administration has given certain reasons in para 12 of the reply. There is reference to the incident dated 05.12.1998 which admittedly took place, in which the applicant and the Agent, Mrs. Abhyankar and her father-in-law, Mr. B. Abhyankar, were involved. There was a big scene in the office according to which there were exchange of words and applicant was assaulted by Mr. Abhyankar. Then the administration has referred to some other shortcomings by the applicant and complaints by the public. If in these circumstances the administration decides to transfer the applicant from one post office to another post office and that too in the same city, it cannot be said that the order is punitive in nature.

5. Strictly speaking, this Tribunal cannot sit in appeal over the administrative orders of transfer. We cannot decide whether the order of transfer is justified or not. We cannot act as an Appellate Court. Whom to transfer where is purely the management function of the administration. The role of Courts and Tribunals is very limited. If the order suffers from malafide or the order is contrary to any statutory rules, then

only Tribunal or Court can interfere, as pointed out by the Apex Court in number of recent decisions vide :

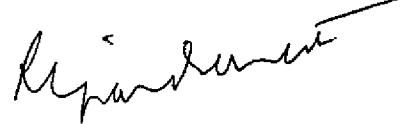
- (i) 1995 SCC (L&S) 666 .. (State of Madhya Pradesh & Another V/s. S. S. Kaurav & Others).
- (ii) AIR 1993 SC 1236 .. (Rajendra Roy V/s. Union of India).
- (iii) 1997 SCC (L&S) 634 .. (Laxmi Narain Mehar V/s. Union of India & Others).

In view of the decisions by the Supreme Court, I hold that no case is made out for interfering with the impugned order of transfer.

6. The only other grievance made by the Learned Counsel for the applicant is that he had to lose the quarter in view of the order of transfer. It may be that it was a case of post attached quarter and due to transfer to Head Office, the applicant has to lose the quarter. The applicant can apply for the quarters which are attached to the Head Office subject to availability of quarter and subject to his seniority and turn. Naturally, the applicant will get the quarter in course of time but that is not a matter which will come in the way of quashing the order of transfer. If that argument is accepted, then no official who is in possession of the quarter can be transferred because transfer necessarily means the official will have to vacate the quarter. Respondents should consider the request of the applicant for allotment of quarter subject to availability and subject to his turn and seniority.

We may also place on record that the applicant has complied with the order of transfer and has already joined the Head Office and is working there. Therefore, I do not find any case is made out for interfering with the same.

7. In the result, the application fails and is rejected at the admission stage. No order as to costs.



(R.G. VAIDYANATHA)

VICE-CHAIRMAN.

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