

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 709/2001

MONDAY, THIS THE 15TH DAY OF APRIL, 2002

CORAM: HON'BLE SMT. SHANTA SHAstry. MEMBER (A)

S.S. Sathe, P.A. (SBCO),
A-10/403, Lok Dhara,
Kalyan (E)
Dist. Thane-421 301.

... Applicant

By Advocate Shri K.R. Yelwe.

Versus

1. Union of India
through Chief Post Master General,
Maharashtra Circle, g.P.O.,
Mumbai-400 001.

2. Assistant Post Master
General (Staff), G.P.O.,
Mumbai-400 001. Respondents

By Advocate Smt. H.P. Shah.

Q.U.E.R (ORAL)

The applicant is aggrieved by the transfer order dated 30th May, 2001 transferring him from Andheri Head HO to Alibaug HO.

2. The applicant's grievance is that the respondents have been all along bent on transferring the applicant. He joined as Postal Assistant on 15.5.1996. he is an Ex-serviceman. Within a period of one year of joining, a transfer order was served on him, but was subsequently cancelled. Again the applicant was served with a transfer order on 09.01.2000 but it was also kept in abeyance. Now, finally he has been transferred on 30.5.2001. The reason for the applicant in opposing the

transfer is that he had requested for transferring him to Bombay HO or Thana HO or Kalyan HO and that request is still pending. Instead of considering his request for transfer to the place of choice given by him, the respondents have transferred him to Alibaug. The applicant submits that he is suffering from right leg knee problem and will be referred to Navy Hospital, INS Ashwini for operation. His wife is working as Branch Manager in Thane Gramin Bank at Khanivali Branch. The applicant also contends that the transfer order is against the principle of contiguity and is in violation of GR 141-77/2000 issued by Government of India, Ministry of Communication dated 02nd March, 2000 and the transfer order has been issued with malafide intention against transfer policy. The applicant submits further that there are other employees, who had requested for transfer to their place of choice and the same has been granted to them and in some cases, the transfer orders have even been cancelled on request and only the applicant has been singled out for transfer to Alibaug against his request for transfer to Bombay HO or Thane HO or to Kalyan HO.

3. The learned counsel for the respondents submits that a sympathetic view was taken in the case of the applicant and therefore, his earlier orders of transfer were either cancelled or kept in abeyance. The applicant's representation requesting for transfer to Bombay HO/Kalyan HO/Thane HO had been kept under

consideration and he was given suitable reply on 25.02.2000 as well as on 01.02.2001 stating that his request had been registered and would be considered as per the terms and as and when vacancy arises. The learned counsel for the respondents submits that his request was finally rejected on 03.9.2001.

4. The learned counsel for the respondents also contends that transfer is an incidence of service and though the applicant had brought political pressure by approaching the Chairman of the National SC/ST Commission the respondents had taken a lenient view without taking any disciplinary action against the applicant. The respondents have also relied on the judgments in the case of Union of India Vs. S.L. Abbas 1993 (SC) 2444; Gujrat State Electricity Board & Ors Vs. Atmaram Sungomal Poshani 1989 (2) SCC 602 and National Hydroelectric Power Corporation Limited Vs. Bhawan and Shiv Prakash ATJ 2002 (1) 108. The proposition in these judgments is that no Government servant has any legal right for being posted at any particular place. Transfer is an incidence of service. Unless the transfer is in violation of statutory provision or is malafides it cannot be interfered with. As per policy the applicant being the juniormost, has been transferred.

4. The applicant has been harping on the fact that there are many senior who are continuing to stay in Andheri HO, they have not been transferred, but it is the applicant who has been transferred to Alibaug though junior. The applicant has not made those seniors as parties to this OA.

5. I have heard the learned counsel for the applicant as well as for the respondents. In my considered view, time and again the Supreme Court has clearly laid down that the courts should not interfere in matters of transfers unless there are malafides or it is in violation of the statutory rules. Grounds of personal inconvenience can not be taken for cancellation of transfer orders. In this particular case, the applicant has put in more than four years service at Andheri. He has now been transferred by the respondents. No doubt, the applicant had requested for a particular place. The respondents have considered his case and have rejected the same. The applicant has not shown any violation of statutory rules by the respondents regarding transfer. In fact, even the communication referred to by the applicant dated 02nd March, 2000 from the Ministry of Communication has only stated that as far as possible the HPOs contiguous to each other should be grouped together and the SBCO staff should be transferred within such group of HPOs after completion of prescribed tenure. The respondents state

that Alibaug falls within the Mumbai region and thus the respondents have not violated instructions given in the aforesaid letter dated 02nd March, 2000 while transferring the applicant to Alibaug. In my considered view, the applicant has not given any good reason as to why his transfer order should be cancelled except for personal ground which obviously has been considered by the respondents while rejecting his claim. In the facts and circumstances of the case I do not see any reasons to interfere with the transfer order. Accordingly, the OA deserves to be dismissed.

6. It is made clear that the dismissal of the OA shall not come in the way of the respondents from reconsidering and deciding the request of the applicant in future. In the result, the OA is dismissed. Accordingly, the MP No.884/2001 is also dismissed. No costs.

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(SMT. SHANTA SHAstry)
MEMBER (A)

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✓ Judy 22-15/4/02
to _____, dated
30/4/02

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