

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 211/97

Date of Decision: 30.5.97

B.S.Jadhav

.. Applicant

Shri S.P.Inamdar

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri S.S.Karkera for Shri P.M.
Pradhan

.. Advocate for
Respondent(s)


CORAM:

The Hon'ble, Shri B.S.Hegde, Member (J)

The Hon'ble

(1) To be referred to the Reporter or not ? *p*

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? *y*


(B.S.HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO.211/97

30 this the Friday day of May 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)

Balwant Shivram Jadhav,
Group 'C', Sub Record Officer (HSG-II),
Kolhapur RMS "BM" Dn. Miraj,
Residing at Plot 1B, Shanta Durga Colony,
Pachgaon, Kolhapur - 416 007.

By Advocate Shri S.P.Inamdar ... Applicant
V/S.

1. Union of India,
through the Chief Postmaster General,
Maharashtra Circle,
Mumbai- 400 001.
2. The Postmaster General,
Goa Region,
Panaji- 403 001.
3. The Supdt. of Railway Mail Services,
"BM" Dn. Miraj (Sangli)-416 410.
4. Shri G.B.Mulla,
HSA, Kolhapur RMS Set 2,
Kolhapur - 416 001.

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan, CGSC ... Respondents

O R D E R

(Per: Shri B.S.Hegde, Member (J))

Heard Shri S.P.Inamdar for the applicant.
Shri S.S.Karkera for Shri P.M.Pradhan appears on
behalf of the respondents.

2. Since the pleadings are complete, it is
decided to dispose of the OA. at the admission
stage itself.

BSH

3. In this OA. the applicant is challenging the impugned transfer order dated 20.1.1997 transferring the applicant HSG II (BCR), SRO Kolhapur to be HSG II (BCR) HSA Kolhapur RMS/2 vice Shri G.B.Mulla. In his place Shri G.B.Mulla is posted. It is also stated in the transfer order that since there is no change in place of posting of officials, they are not entitled for TA/Transit. The applicant was directed to handover the charge of S.R.O., Kolhapur to Shri G.B.Mulla on 22.1.1997 B/N and join his new posting. Against this order the applicant has approached the Tribunal. On 28.2.1997 after hearing the submissions of counsel for the applicant, the Tribunal has observed that "the reason for delay in challenging the order was that the applicant was involved in an accident and is on medical leave at present. His contention is that the applicant has been transferred when he had hardly completed one year of posting at the present position under extraneous pressure. Status quo as of today. In case the applicant has not handed over the charge, he may not handover till the next date."

4. The respondents have filed the reply on 27.3.1997.

5. The main contention of the applicant is that he is the senior most and the transfer from SRO to HSA Kolhapur is a humiliation one and not in accordance with the status, therefore, the transfer order issued by the respondents is nothing but a punishment.

Blr


6. Respondents have filed reply wherein they submitted that the application of the applicant is not maintainable and it requires to be dismissed since the applicant is seeking to challenge the order passed by the respondents posting the applicant from SRO Kolhapur to HSA Kolhapur RMS/2 which is within the same locality and vicinity of 5 mts. and there is no change in any of the status and/or emoluments as alleged by the applicant. They further submit that the posting issued by the respondents is in the interest of administration placing the applicant in the same station and there is no prejudice, illegality and malafide committed by the respondents. Further, it is noticed that the applicant while working as Sub.Record Officer was not in a position to control the entire administration and staff because of which the postal articles badly delayed and could not reached the proper destination in time and caused inconvenience to the common public. It is further submitted that the staff/Union working under him also preferred complaint against the applicant causing harassment to the staff working under him and the said compliance was also sent to higher authority with regard to the delayed/pending and disposal of postal mails as well as the staff grievance and ultimately the Chief Post Master General was pleased in the interest of the administration and as well as in the interest of public exchequer directed the Respondent No. 3 to post the applicant as Head Sorting Asstt.(HSGII) which is in the same station. Thereby, it cannot be said that the posting order issued by the respondents caused any humiliation and/or degraded his status. It is further submitted that the applicant was working in the post of HSG II and he was working as SRO and now posted as Head Sorting Assistant is of equal ranks and there is no change in his status and/or in his remuneration as alleged by the applicant.

bn

7. The short question for consideration is whether the transfer order issued by the respondents challenged by this OA. is in any way malafide or against the rules. Courts have repeatedly held that normally Tribunal should not interfere in the transfer order which is made in public interest unless transfer order is in violation of mandatory or statutory rules or on grounds of malafides. In our view, such transfer orders issued by the respondents are neither in violation of rules nor on grounds of malafides. An order of transfer is an incident of Government service and who should be transferred where is a matter for the appropriate authority to decide. The only contention raised by the applicant in this OA. is that he is the senior most and he should be allowed to complete the tenure which is in this case is four years and he should not be transferred. Respondents have given cogent reasons that he has been transferred from one post to other post within the same station and for administrative reasons.

8. I the result, I do not find any merit in the OA. and the same is dismissed with no orders as to costs.

9. Since as per the transfer order the applicant has already been relieved on 22.1.1997 and the interim order passed is very guarded one "if he has not handed over the charge, he may not hand over till the next date", in the circumstances, interim order stands vacated.


(B.S. HEGDE)
MEMBER (J)

mrj.