

Single

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

O.A. NO. 419/89,

T.A. NO.

DATE OF DECISION 20/01/90

Petitioner

Advocate for the
Petitioner (s)

Versus

Respondent

Advocate for the
Respondent (s)

CORAM

The Hon' ble Mr.

B. N. Jayasinha, Vice Chairman

The Hon' ble Mr.

1. Whether Reporters of local papers may be
allowed to see the Judgment ?

no

2. To be referred to the Reporter or not?

no

3. whether their Lordship wish to see the
fair copy of the Judgment?

no

4. whether it needs to be circulated to
other Benches of the Tribunal ?

no

5. Remarks of Vice-Chairman on columns
1,2,4, (To be submitted to Hon'ble
Vice-Chairman where he is not on the
Bench)

BNT

(BNT)
Hvc.

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 419 of 1989 ✓

DATE OF ORDER: 30/01/1990

K.Molakayya

....Applicant

Versus

The Senior Superintendent of
Post Offices, Prakasam Division,
Ongole, Andhra Pradesh, and
two others

....Respondents

...

For Applicant:Mr.P.Venkateshwarlu, Advocate

For Respondents:Mr.J.Ashok Kumar, Standing Counsel
for the Department.RR.1&2.

For RespondentNot appearing by Advocate or by
No.3: person.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

(Judgment delivered by Hon'ble Shri B.N.Jayasimha, VC)

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1. This is an application filed by a Sub-Postmaster, Tangutur, Prakasham District, challenging the order of transfer issued to him in Memo.No.B/GL/Transfers/89, dated 26-5-1989, ~~passed~~ by the Senior Superintendent of Post Offices, Prakasham Division, Ongole, transferring him from Tangutur Sub-Post Office to Santhamagaluru Sub-Post Office, Santhamagaluru Mandalam, Prakasham District.

2. The brief facts of the case are that the applicant ^{was} ~~is~~ working as Sub-Post Master, Tangutur Sub Office from 10-7-1985. The Senior Superintendent of Post Offices in his memo no.B/GL/Tfrs/89, dated

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29-4-1989 transferred the applicant to Tangutur Bus Stand Post Office. In the same orders, 15 officials have also been transferred to various places on completion of ^{their} tenure. Subsequently, the applicant was transferred by the Senior Superintendent of Post offices vide memo no.B/GL/TFRS/89, dated 26-5-1989 from Tangutur Bus Stand to Santhamaguluru Sub-Post Office, Prakasham Division, posting the 3rd respondent Sri D.Venkateshwarlu, Sub-Post Master, Peddaarikatla to Sub-Post Office, Tangutur Bus Stand, Prakasham Division. ^{said} The applicant contends that the transfer is unjust and liable to be quashed on the ground that he has been transferred within a period of less than one month. Hence, he filed this application.

3. The respondents in their counter state that the applicant had completed four years of service as Sub-Post Master, Tangutur Sub-Office. As per Rule 60 of P & T Manual Volume IV, the post of Sub-Postmaster should not be occupied by the same official continuously at a time for more than four years. On completion of ^{the} tenure the applicant was transferred to Tangutur Bus Stand Post Office, by the Senior Superintendent of Post Offices, in his memo dated 29-4-1989. In the same orders, 15 officials were also transferred to various places on completion of ^{their} tenure. Sri Venkateswarlu, Respondent no.3, who was working as Sub-Post Master, Pedariketla Sub Office was transferred to Vakaparla. The 3rd respondent submitted a representation dated 2-5-89 to the Director of Postal Services, Vijayawada, stating that he came from Secunderabad division to Prakasam

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Division in the year 1979 at request and that at that time he was posted to Pedagollapalli in Kanigiri area and that on completion of tenure at Pedagollapalli, he was posted to Pedarikatla in Kanigiri area and that he completed two tenures viz., 8 years in Kanigiri area which is a bad locality. He also stated that the applicant herein who ~~was~~ completed a tenure in Tangutur was transferred to Tangutur Bust Stand in the same town. On consideration of these facts, the Postmaster General, Vijayawada directed that respondent no.3 may be posted at Tangutur Bus Stand Post Office and accordingly the impugned memo dated 27-5-1989 was issued. The respondents contend that the transfer is an incident of service and the applicant has no vested right to work in a particular place. He has completed more than 4 years of service in Tangutur and he cannot be continued in the same place. Revised transfer orders were issued ^{on} ~~in the~~ administrative interest to give relief to the officials working in unpopular or bad place. For these reasons, the respondents oppose this application.

4. I have heard Shri P.Venkateshwarlu, learned counsel for the applicant and Shri J.Ashok Kumar, Standing counsel for the Department.

5. Shri Venkateshwarlu states that in the order of transfer dated 29-4-1989, a number of persons were transferred in ~~the~~ Ongole town itself and they are being treated as transfers. The applicant has been transferred from one station in Tangutur to another station in Tangutur and he should not have been disturbed ~~to~~

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to accommodate respondent no.3. Shri Ashok Kumar contends that the order passed by the Superintendent of Post Offices, transferring the applicant from one station in Tangutur to another station in Tangatur was reviewed by the Post Master General while considering the representation of respondent no.3 and accordingly the applicant was transferred to Santhamaguluru Sub-Post Office, Prakasham Division. The transfer order has been issued in administrative interest in accordance with the policy of accommodating persons who have worked for a long period in hard stations. The contention of the applicant that he has been transferred before completing his tenure at Tangutur and Bus stand is not valid.

Shri Venkateshwarlu, urges that by this impugned order, the applicant has been transferred to a place 60 miles away, This has resulted in ^{considerable} hardship to him as his eldest daughter is to be married, he has to look after his aged parents and the transfer at this stage disturbs his family life. He also states that the impugned order of transfer is the result of influence and pressure brought by rival union leaders to get a member of their Union posted in the applicant's place.

6. I have considered the above submissions. It is well settled in Kamalesh Trivedi Vs. ICAR (1988)7 ATC 253) that 'the transfer is an incident of service and no government servant is entitled to be retained at a particular place. The Government has the power and authority to transfer in the exigencies of the administration.' The Supreme Court in Gujarat

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To:

1. The Senior Superintendent of post offices, Prakasham division, Ongole, Andhra Pradesh.
2. The Post Master General, A.P.Circle, Vijayawada, A.P.
3. One copy to Mr.P.Venkateshwarlu, Advocate, 4-7-220, Esamia Bazar, Hyderabad.
4. One copy to Mr.J.Ashok Kumar, sc for postal department, CAT, Hyderabad.
5. One spare copy.

kj.

Done
21/6/69

Electricity Board Vs. Atmaram (AIR 1989 SC 1433)

observed as follows:

"When a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance to the transfer order, he would expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other."

The applicant did not mention that transfer has been made at the instance of the rival union. This point is urged ^{course} now in the ~~case~~ of the arguments and in a supplemental affidavit. No weight can be given to this contention.

I do not find that the transfer has been made in colorable exercise of power or that it has been made for any collateral purposes. As regards the hardship caused to him and his family by this transfer, it is for the applicant to represent the same to the authorities concerned. The applicant has not made representation but has rushed to this court to file this application. The Respondent would no doubt consider any such representation made by the applicant on merits. In the above circumstances, I do not find any merit in the case and it is accordingly dismissed. No Costs.

B. N. Jayasimha
(B. N. JAYASIMHA)
VICE-CHAIRMAN

Dated: 30th January, 1990.

S. Venkatesh
DEPUTY REGISTRAR (J)

SQH/tar.

*6/1/90
S. Venkatesh*