

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

D.A. No. 39 of 1989

J.A. No.

DATE OF DECISION

6-10-89

K.V. Sangeeta Rayudu

Petitioner

K.S.R. Anganeyuli

Advocate for the
Petitioner(s)

Versus

Secy, Govt. - Dept. of P&S, New Delhi & Others

Respondent

E. Madan Mohan Rao, Addl. C.L.C.

Advocate for the
Respondent(s)

CORAM

The Hon'ble Mr. D.K. Chakravorty, Member (Adm.)

The Hon'ble Mr. _____

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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)

[Signature]
H.D.K.C.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.No. 39 of 1989

Date of Order: 6-10-1989

Between:-

K.V.Sanjeeva Rayudu.

...Applicant.

a n d

The Union of India represented by:

1. The Secretary to Government, Department of posts, New Delhi.
2. The Post Master General, Hyderabad.
3. The Regional Director, Andhra Pradesh, Southern Region, Kurnool.
4. The Superintendent of post offices, Ananthapur.

...Respondents.

FOR THE APPLICANT:

Mr.K.S.R.Anjaneyulu, Advocate.

FOR THE RESPONDENTS:

Mr.E.Madan Mohan Rao, Addl. CGSC.

C O R A M:

THE HON'BLE MR. D.K.CHAKRAVORTY: MEMBER: (ADMN.)

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JUDGMENT OF THE TRIBUNAL DELIVERED BY HON'BLE SHRI D.K.CHAKRAVORTY,
MEMBER (ADMN.)

Aggrieved by the order No.B2/HSG/VI dated 13.1.1989 from the Superintendent of Post Offices, Ananthapur (4th respondent herein), the applicant has submitted this application for setting aside his transfer from Ananthapur to Dharmavaram.

2. The applicant states that he is presently working as Head Post Master, Head Post Office, Ananthapur. He is now 55 years old and is in the last tenure of service. His 93 years old mother ^{who} is suffering from Osteoarthritis and hypertension, is undergoing treatment at Ananthapur. Under the advise of the Doctor, his old mother cannot be shifted to any other place. The applicant had made a representation on 22.6.1988 to the Post Master General that he may be retained at Ananthapur for one year. The Superintendent of Post Offices, Ananthapur, vide his memo dated 30.12.1988 had stated that the request of the applicant had been approved by the Post Master General till the next rotational transfers. The authorities have issued the impugned order, transferring him out of Ananthapur, within a short period of 12 days ^{thereafter}/. He understands that this has been done at the behest of frivolous complaints against him made by the rival Unions. He contends that the

order of transfer is not a routine administrative transfer in public interest but a result of malafide exercise of power intended to visit him with penal consequences. The applicant has unblemished record of service without any complaints from his superiors. Since no enquiry was held nor any opportunity was given to him in regard to the alleged complaints from the rival union, the transfer is punitive, ~~and~~ colourable exercise of power and casts a stigma on him. The order of transfer within 12 days of approval of his retention at Ananthapur is patently arbitrary. The applicant further states that the transfer at the fag end of the academic year is contrary to the instructions in Rule 37(A) of the P & T Manual, Volume-IV, as this would affect the education of the school going children. He prays that, in view of the circumstances mentioned above, the order of transfer be quashed.

3. A reply statement has been filed on behalf of the respondents. It has been submitted that the applicant is working as Post Master, Ananthapur from 27.9.1984. According to Rule 60 of P&T Manual, Volume-IV, a tenure of four years was prescribed which the applicant had completed by 1.4.1988. The applicant was posted as Manager, Postal Stores Depot, Guntakal, under the order dated 14.6.1988 against which the applicant submitted a representation on 22.6.1988 to the Post Master General. On consideration of his representation, the Additional Postmaster General, Hyderabad approved retention

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of the applicant at Ananthapur till next rotational transfers. Even before the extension was granted, there were complaints from the local unions that he is harassing the staff of rival unions, the applicant himself being the President of Circle Union of one faction of the Union. The complaints were enquired into before extension was granted and the applicant was advised to be impartial in discharging his duties. It is submitted that even after the grant of extension, there was a complaint from the All India Postal Employees Union, A.P.Circle Branch, that the applicant is continuing to harass staff. As the applicant was continuing to be controversial and since he had already completed his tenure at Ananthapur and is working at Ananthapur on extension after his completion of tenure, the Post Master General has cancelled the retention granted and posted him at Dharmavaram. The applicant was transferred in the normal course in June 1988. He was on extension granted by the administration at his personal request and cancellation of that extension granted cannot be termed as mala fide exercise of power. By the time the extension was cancelled the post at Guntakal was already filled up and, therefore, the applicant was posted as Postmaster, Dharmavaram Head Post Office.

4. While admitting the application on 24-1-1989, the Tribunal granted interim stay of implementation of the impugned order dated 13-1-1989.

5. Heard the learned counsel for the applicant, Shri K.S.R.Anjaneyulu and the learned counsel for the respondents, Shri E.Madan Mohan Rao, Addl. CGSC.

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6. In a recent decision dated 12-7-1989 in "Union of India & others Vs. Shri H.N.Kirtania (Judgments Today 1989(3) SC 131)", the Supreme Court has held as follows:-

"We do not find any valid justification for the High Court for entertaining a writ petition against the order of transfer made against an employee of the Central Government holding transferable post. Further there was no valid justification for issuing injunction order against the Central Government. The respondent being a Central Government employee held a transferable post and he was liable to be transferred from one place to the other in the country, he has no legal right to insist for his posting at Calcutta or at any other place of his choice. We do not approve of the cavalier manner in which the impugned orders have been issued without considering the correct legal position. Transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of malafides. There was no good ground for interfering with the respondent's transfer."

7. In the instant case, the applicant is in a transferable service. He had completed the normal tenure of 4 years at Ananthapur, way back in April, 1988. The authorities were considerate enough to accept his request for retention till next rotational transfer and cancelled the transfer order dated 14-6-1988. Further extension was not allowed because of complaints against him which continued even after he was advised to improve. The

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applicant has not established any special circumstances, considerations or grounds rendering the transfer order of January, 1989 as illegal or malafides for setting aside the impugned order. There are no merits in this application.

8. Following the decision of the Supreme Court quoted supra, the application is liable to be dismissed and it is accordingly dismissed. In the circumstances of the case, there will be no order as to costs.

D.K. Chakravorty
(D.K. CHAKRAVORTY)
Member (Admn.)

Dated: 6th October, 1989.

vsn

Ward 27/10/89
Dep't Registrar (A)

To:

1. The Secretary to Government, Department of posts, New Delhi.
2. The Post Master General, Hyderabad.
3. The Regional Director, Andhra Pradesh, Southern Region, Kurnool.
4. The superintendent of post offices, Ananthapur.
5. One copy to Mr. K.S.R. Anjaneyulu, Advocate, 1-1-365/A, Jawaharnagar, Bakaram, Hyderabad-500 020.
6. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, C.A.T. Hyderabad.
7. One spare copy .

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kj.

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[Signature]
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DRAFT BY

CHECKING BY

D.R.

TYPED BY *KJ*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

~~HON'BLE MR. B.N. JAYASIMHA: V.S.~~

~~AND~~

~~HON'BLE MR. D. SURYARAO: MEMBER (J)~~

~~AND~~

~~HON'BLE MR. D.K. CHAKRAVORTY: M(AD.)~~

~~AND~~

~~HON'BLE MR. J. NARASIMHAMURTHY: M(J)~~

DATED : 6.10.88.

~~ORDER~~/JUDGMENT

T.A. NO. / (W.P. No. /

O.C.A. No. 39. / 89.

~~Allowed~~

~~Dismissed~~

~~Disposed of~~

~~Ordered~~

~~No order as to costs.~~

PSR

