

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.676/92

DATE OF JUDGEMENT: 30th SEPTEMBER, 1992

BETWEEN

Mr Md Imtiyaz Hussain

.. Applicant

AND

1. Postmaster General
Hyderabad

2. Director of Postal Services
Hyderabad

3. Superintendent of Post Offices
Mahabubnagar

.. Respondents

Counsel for the Applicant

: Sri K. Venkateswar Rao

Counsel for the Respondents

: Sri NR Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

Imp
Qn
J.

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY HON'BLE
SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act, to quash the transfer order of the applicant dated 7.8.92, issued by the Superintendent of Post Offices, Mahabubnagar Division, Mahabubnagar, transferring the applicant from Mahabubnagar HO to Hanmanpura Town Sub Office in Mahabubnagar, As illegal arbitrary, discriminatory and to pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief may be stated as follows:

3. The applicant herein was working as Postal Assistant from 15.12.89 in SB Branch. The applicant has completed 2 and 1/2 years service in the SB Branch in Mahabubnagar Head Office. The applicant has also come out successfully in the examination for grant of SB Allowances to Postal Assistants in the SB Branches of the Post Offices aptitude tests held on 10.9.89. By virtue of his passing the aptitude test, the applicant became entitled for payment of SB Allowance at the rate of Rs.60/- p.m. According to the tenure of SB Clerks, the overall tenure in Head Offices having the SB Allowance scheme in SB Branch is five years out of which 3 years can be as counter clerk, Ledger Clerk or as Supervisor. A clarification has been issued by the Director General of Posts vide his letter No.2-3-/86-SB dated 27.4.89 that the period of five years will start from the date, the official is posted to SB Branch. It was also stated in the DG's letter dated 17.7.68 that the Divisional Superintendents will be competent to transfer the officials in SB/SC Branch even before the completion of tenure period where considered necessary on administrative grounds.

4. The third respondent vide orders dated 7.8.92 had transferred the applicant from the post of Postal Assistant

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SB Branch, Mahabubnagar Head Office and posted him as Sub-Post Master Hanumanpura within Mahabubnagar town. According to the applicant, the said transfer involves penal consequences as the applicant loses the SB allowance of Rs.60/- p.m. So, the present OA is filed for the relief as already indicated above.

5. Counter is filed by the respondents to this OA. A rejoinder is also filed by the applicant to the counter of the respondents.

6. We have heard Mr K.Venkateswara Rao counsel for the applicant and Mr NR Devraj, counsel for the respondents.

7. In the counter of the respondents, the following instances are stated *for expecting the said transfer. The relevant portions in the counter is extracted as here under.*

"His case for retention in the said post and also at Mahabubnagar Head Post Office, has been examined and in view of the following serious instances, it was found that he is not fit to be continued in the said post and also at Mahabubnagar HO itself. Therefore, third respondent has issued transfer orders, shifting him from Mahabubnagar HO to a neighbouring local Hanumanpura Town Sub-Office.

- (i) The applicant misbehaved with a member of public and showed ~~xi~~ discourtesy towards a customer and did not guide the customer properly and therefore he was proceeded under Rule 16 of CCS(CCA) rules 1965 and he was awarded with a punishment of 'Censure' on 29.5.92.
- (ii) He was involved in the case of alleged assault over a supervisor (Asst.Post Master(Mails) Mahabubnagar HO) on 7.2.90 in which case he caught hold the left shoulder of the APM(M) and pulled him to the chair of the Postmaster - Mahabubnagar HO in the open office. He was proceeded against under Rule (16)(b) of CCS (CCA) Rules 1965 and a punishment of withholding one increment for a period of two years without cumulative effect was inflicted on him on 29.5.92.
- (iii) The applicant was found responsible in instigating (17) officials of Mahabubnagar HO to leave the office without prior permission, from the Postmaster to participate in a working committee meeting of his Union held on 20.7.92 and, as a result, SB/NSC counter and Registration counter of Mahabubnagar HO were closed on 20.7.92 causing inconvenience to the public and causing disruption to the normal functioning of the office.
- (iv) The applicant mis-behaved with the complaints Inspector of Post Offices on 19.6.92 when the later visited Mahabubnagar Head Office. He obstructed the Complaints Inspector in performing his official

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duty and used unparliamentary words, criticising the Divisional Head (Supdt. of Post Offices) and shouted in loud voice not to come to his branch again. He has thus taken law into his own hands and the incident was confirmed during the enquiry.

Thus series of incidents mentioned above, depict the tendency of the applicant, which is sub-versive of discipline. He continued to have bad record of service and there was nothing left for the respondent but to transfer him from Mahabubnagar HO in the interest of service for smooth functioning of operative branches at Mahabubnagar HO. Therefore, the third respondent has issued orders transferring him from Mahabubnagar HO to a local town sub-office Hanumanpura on 7.8.92. The applicant proceeded on commuted leave on MC for 3 days from 6.8.92 to 8.8.92 and extended his leave for 15 days with effect from 9.8.92. His name has been struck off from the rolls of Mahabubnagar HO as PA Mahabubnagar HO and in his place one Sri M. Narasimham, SPM Hanumanpura has joined on 12.8.92(A/N). The applicant has joined on 28.8.92 at Hanumanpura Town sub-office. "

So, as could be seen from the said counter of the respondents, the applicant had been transferred purely on administrative grounds and in the interest of the administration. So, in our opinion, the said transfer order is valid. The learned counsel appearing for the applicant had attacked the said transfer of the applicant from Mahabubnagar HO to Hanumanpuram TSO on the following grounds.

(i) ~~According to the learned counsel for the applicant,~~

The said transfer order had been issued at the instance of Postmaster General, Hyderabad who is not the transferring authority and the Superintendent of Post Offices had acted at the behest of the Postmaster General, Hyderabad in effecting the transfer of the applicant and so the said transfer is not legal.

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- (ii) The applicant had been picked up and chosen for the said transfer and in view of this position, the transfer of the applicant is arbitrary.
- (iii) The transfer of the applicant is effected to victimise the applicant as he is union leader and the said transfer is not on any administrative grounds, and hence, liable to be quashed.

So, for the first contention of the learned counsel appearing for the applicant, we can straightaway put forth that the Postmaster General Hyderabad, absolutely has no ~~will~~ ^{will} as against the applicant. It is quite possible that certain instances were brought to his notice as against the applicant and he might have come to the opinion that it will not be fit and proper to keep the applicant as Postal Assistant in the Mahabubnagar HO and so might have suggested to Superintendent of Post Offices to transfer the applicant as Sub-Postmaster of Hanumanpura TSO. As the suggestion has come from the higher authority to the transferring authority for effecting the said transfer of the applicant, said transfer of the applicant does not become illegal, as ^{the} transfers are ~~made~~ ^{also made} as per the suggestions of higher authority to the transferring authority. The only test in ~~transfer~~ ^{transfers} that has to be borne in mind is whether the said transfer is in public interest or not. In view of the instances cited in the counter of the respondents, it can't be said that the transfer of the applicant is not in public interest. Hence, we see no ^{above} force in the ~~contention~~ ^{contention}.

We also see no substance in the contention that the applicant had been ~~picked~~ ^{picked} and chosen for the transfer. In view of the allegations as against the applicant and ~~penalties~~ ^{penalties} imposed on the applicant in the departmental enquiries, it is not open for the applicant to say that the said transfer has been

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effected as a ~~xxxx~~ measure of punishment. Admittedly, the applicant is transferred only within the town limits of Mahabubnagar. If the respondents intended to effect ~~any~~ transfer as a measure of punishment to the applicant, nothing prevented the respondents from transferring the applicant to a place outside Mahabubnagar. So, as the transfer is within Mahabubnagar town, itself, it cannot be said that the applicant had been ^{picked up} ~~chosen~~ and chosen for the said transfer and the same is also effected to victimise him as he is a union leader.

The learned counsel appearing for the applicant further contended that the applicant is ^{put to} ~~at~~ financial loss due to the said transfer and hence, the said transfer of the applicant has ~~to~~ got to be considered as being penal nature. In para 7(d) of the counter of the respondents, it is pleaded that the shifting of post has not inconvenienced ^{the Applicant} ~~the Applicant~~ and on the other hand, he is eligible to get HRA in lieu of rent free quarters @ Rs.80/- p.m. at his new post in addition to the normal HRA and thus, he is benefitted in getting Rs.20/- more p.m. In view of the above statement, in the counter of the respondents, it is not possible to believe that the said transfer had been made as a measure of penalty to the applicant.

It was brought to our notice that as a Postal Assistant that the applicant ~~have~~ ^{is transferred and} telephone facility and that he used to meet his union members and leaders of his association and knew their difficulties and solve them and in view of the said transfer that he is deprived of the ~~fm~~ phone facility as there is no phone facility in the sub-office where the applicant has to work. No doubt, ~~xxxxx~~ as a Union leader the applicant might ^{be} ~~have been~~ put to inconvenience in the


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absence of telephone facility at his ^{new} office. This however, is not to say that there is immunity on the transfer of office bearers of the Associations and they can not at all be transferred.

Transfer is an incident of service and not a condition of service. No Govt. servant is entitled to be retained at a particular place or in a particular post. The Competent Authority has always power to effect the said transfer in the exigencies of the administration. The transfer of the applicant is effected in the same grade. Transfer in posts which are in the same grade or considered equivalent, can be effected on administrative exigencies. Even though it is pleaded that the applicant is discriminated in the matter of transfer we see ~~absolutely~~ no discrimination in the said transfer of the applicant from one post to another of equal status. Absolutely, we see no merits in this OA. Hence, this OA is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, the parties shall bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 20 September, 1992

Dy. Registrar(J)

To mvl

1. The Postmaster General, Hyderabad.
2. The Director of Postal Services, Hyderabad
3. The Superintendent of Post Offices, Mahabubnagar.
4. One copy to Mr.K.Venkateswar Rao, Advocate
2-2-1136/3/1, New Nallakunta, Hydefabad.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 30 - 9 - 1992

ORDER / JUDGMENT

~~R.A./C.A./M.A. No~~

in

O.A. No.

676/92

~~T.A. No.~~

~~(W.P. No)~~

Admitted and interim directions
issued

Allowed.

Disposed of with

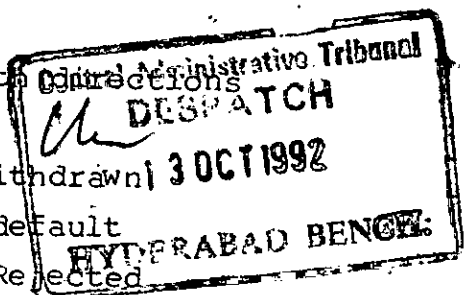
Dismissed

Dismissed as withdrawn

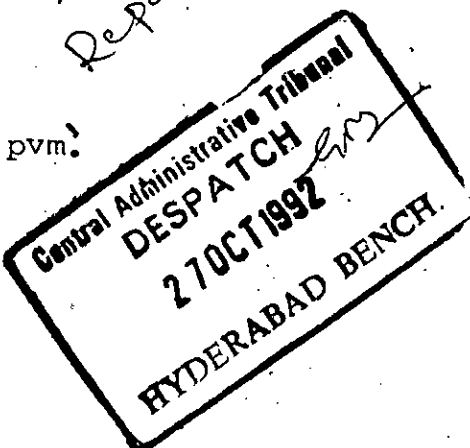
Dismissed for default

M.A. Ordered / Rejected

No orders as to costs.



Despatch
Reports only



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Per register as per AMT date
24/10/92