

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.704/93

date of decision : 18-8-1993

Between

T. Madhusudhana Rao : Applicant

and

1. The Postmaster General
Vijayawada

2. Supdt. of Post offices
Tenali division : Respondents

Counsel for the applicant : V. Ch. Naidu,
Advocate

Counsel for the respondents : N.R. Devaraj, Sr. SC
for Central Government

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HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri Krishna Devan, for Sri V. Ch. Naidu, learned
counsel for the applicant and Sri N.R. Devaraj, learned
counsel for the respondents.

2. The applicant was promoted ^{in May 1993} to HSG Grade II of
Biennial Cadre Revision (BCR) and then transferred to
Repalle. At the time of rotational transfer on 20-5-1993,
the applicant was transferred to Battiprola as Sub Post-
master. Shri T.V. Subba Rao was transferred from
Amrataluru to Repalle. The said order of transfer was
challenged in this OA which was filed on 29-6-93.

3. It is submitted for the applicant that i) he had not completed four years in the cadre of HSG Grade II in Repalle and thus the transfer is contrary to the policy where no employee should ordinarily be transferred unless he completes four years; ii) he is about to retire in 1½ years, and it is one of hardships for it is a case of transfer and he is hardly left with 1½ years of service.

^{when} 1988(8) ATC 677 Debabrata Ray versus Union of India, a judgement of CAT, Calcutta, was referred to in support of the said contention; iii) Sri T.V. Subba Rao, ^{who} was posted in the place of the applicant at Repalle, had submitted a representation dated 24-5-1993 praying for either retention at Amruthaluru or transfer to Battiprola on health grounds.

4. The Supreme Court held in JT.1993 Vol.3 SC 678 - Union of India and others versus SL Abbas, that order of transfer can be challenged only on either of two grounds - i) malafides, ii) violation of statutory rules.

5. If the order of transfer is not in conformity with the administrative instructions issued in regard to transfers, remedy of the employee is to make a representation to higher authority and it is not a matter of interference by the Court / Tribunal. Hence, the principle laid down by the Full Bench in 1989(9) ATC 122 in H.S. Ajamani versus Union of India and others, ^{does not} ~~and as~~ holds good and ~~per incuriam~~ ^{here} the same need not be held by this Bench. ~~followed~~

6. A new plea is taken ⁱⁿ rejoinder to the effect that the order of transfer is ~~windictive~~ ^{windictive} for the applicant was transferred as he happened to be an office bearer. 19 1988(8) ATC 677 in Debabrata Ray versus Union of India, is

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relied upon in support of the said plea. When it was pleaded in the court that the applicant from the members of the public as well as staff and service unions, it was pleaded ^{for respondents} that out of 25 years of service, the applicant worked for 19 years at Repalle and that the service unions gave a memorandum to R-1 and the Chief Post Master General, Hyderabad, against the applicant about his maladministration.

7. In the above view, we feel that it is not proper to advert to the belated plea~~s~~ of the applicant that the order of transfer is indict~~ed~~, vindictive.

8. It is submitted that Sri T.V. Subba Rao, is agreeable even now for a transfer to Battiprola. So, we make it clear that the order or dismissal of this OA is not a bar for the concerned authority to consider on merits if mutual transfer application is going to be submitted. It is submitted that a representation was already made to the higher authority against the order of transfer of the applicant. The concerned authority ^{has} ~~had~~ to dispose of the said application as early as possible.

9. The DA is dismissed. No costs.

(P.T. Thiruvengadam)
Member (Admn)

(V. Neeladri Rao)
Vice-Chairman

Dated : August 18, 93
Dictated in the Open Court


Deputy Registrar (J)

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1. The Postmaster General, Vijayawada
2. The Superintendent of Post Offices, Tenali Division.
3. ~~sk~~ One copy to Mr. V. Ch. Naidu, Advocate MIG -2, B-18, F-12,
Baghilingampally Hyderabad.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDrasekhar REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 18 - 8 - 1993

ORDER/JUDGMENT:

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

in

O.A.No.

706/93.

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

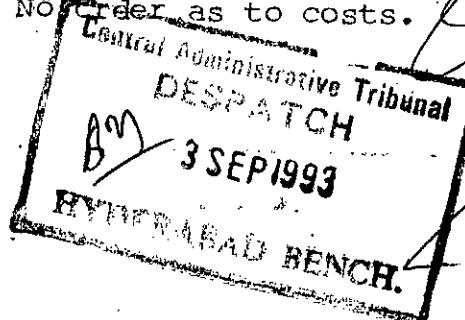
Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.



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