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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

CORAM

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 <sup>in May 1992</sup> 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 Battiprolu as Sub Postmaster. Shri T.V. Subba Rao was transferred from Amrutaluru to Repalle. The said order of transfer was challenged in this OA which was filed on 29-6-93.

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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 <sup>when</sup> and he is hardly left with 1½ years of service. 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, <sup>who</sup> 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 Battiprolu 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, <sup>does not</sup> holds good <sup>as is</sup> and per incuriam <sup>as is</sup> ~~the same need not be held by this Bench.~~ <sup>followed</sup>

6. A new plea is taken <sup>in</sup> rejoinder to the effect that the order of transfer is <sup>in</sup> ~~indictive~~ <sup>indictive</sup> 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 <sup>for respondents</sup> 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 of the applicant that the order of transfer is ~~indicted~~ <sup>voidable</sup>.

8. It is submitted that Sri T.V. Subba Rao, is agreeable even now for a transfer to Battiprolu. So, we make it clear that the order of 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 <sup>has</sup> ~~had~~ to dispose of the said application as early as possible.

9. The OA is dismissed. No costs.

P.T. Thiruvengadam

(P.T. Thiruvengadam)  
Member (Admn)

V. Neeladri Rao

(V. Neeladri Rao)  
Vice-Chairman

Dated : August 18, 93  
Dictated in the Open Court

Deputy Registrar (J)

To

1. The Postmaster General, Vijayawada
2. The Superintendent of Post Offices, Tenali Division.
3. One copy to Mr. V. Ch. Naidu, Advocate MIG -2, B-18, F-12, Baghlingampally 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.N.

in

O.A.No.

704/93.

T.A.No.

(W.P.

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Admitted and Interim directions  
issued.

Allowed

Disposed of with directions

Dismissed

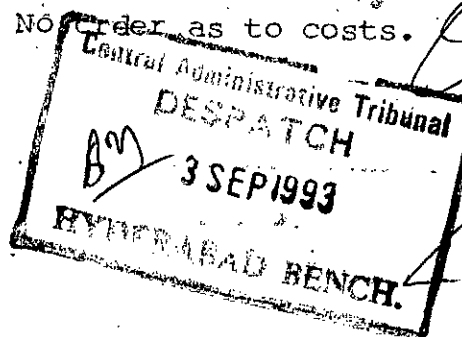
Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

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