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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,  
J A I P U R.

Date of Decision: July 7, 1993.

CA 25/93

MAHAVIR PRASAD SHARMA ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.  
HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER.

For the Applicant ... SHRI K.L. THAWANI.

For the Respondents ... SHRI U.D. SHARMA.

PER HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties. The applicant is not willing to join the alternative posting which has been offered to him vide Annexure A-3 dated 3.12.92. The contention of the learned counsel for the applicant is that the authorities have no power to compel a person to go to any other place unless he is willing to join. His further contention is that he has worked for about 14 years and his services cannot be retrenched and he cannot be transferred to any other place as the post held by the applicant (Extra Departmental Agent) is not a transferable post. Mr. U.D. Sharma accepts that it is not a transferable post. He submits that as per decision taken vide Annexure A-4 dated 13.12.87, alternative posting was offered to the applicant who had been rendered surplus on account of abolition of post. However, we agree that a person who is not willing to accept another post at a different place cannot be compelled to go out as the post is not transferable. For this reason, the order Annexure A-1 is bad and

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accordingly it is set aside.

2. Mr. Thawani has referred to decision No.15 under Method of Recruitment of EDAs prescribed by the Postal authorities. We have gone through the decision. It applies only where the Department is not in a position to provide the discharged E.D. Agents in a vacancy in the vicinity/neighbour hood of his residence. This decision clearly provides that if the discharged E.D.A. refuses to avail himself of this opportunity, no preference for future vacancies may be given to such an Agent. In the light of the decision, relied upon even by Shri Thawani, the counsel for the applicant, the applicant is not entitled to any relief.

3. <sup>that</sup> We have already held the order Annexure A-1 is bad in law and has been quashed. The applicant shall be taken on duty as a consequence of setting aside of order Annexure A-1 and will be entitled to arrears of pay and allowances. However, in the light of the discussion above, the respondent <sup>are</sup> at liberty to pass a fresh order of termination in accordance with law and the prescribed procedure. He will also be entitled to pay and allowances till the date of passing of any fresh order by the respondents. His services can be terminated now by the Department in accordance with law and the procedure prescribed.

4. The OA stands disposed of accordingly, with no order as to costs.

( O.P. SHARMA  
MEMBER (A) )

D.L. MEHIA  
VICE CHAIRMAN