

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Date of order: 31-5-1996

OA No.298/96

Surya Prakash .. Applicant

Versus

Union of India and others .. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. O.P.Sharma, Administrative Member

Hon'ble Mr. Patan Prakash, Judicial Member

ORDER

(Per Hon'ble Mr. O.P.Sharma, Administrative Member)

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Surya Prakash has prayed that the order Annexure-A1 dated 14-5-1996 by which the applicant holding the post of H.S.G-II (E.R), Kota has been transferred and posted as S.P.M. (Sub-Post Master), Chhipabarod may be quashed as being arbitrary, capricious and being violative of Articles 14 and 16 of the Constitution and the principles of natural justice. He has also prayed that the respondents may be directed to continue the applicant at the Head Post Office, Kota where he is working now.

2. The applicant's case is that he was appointed as a Postal Clerk in 1965 and thereafter earned promotions from time to time. He was promoted to Higher Selection Grade II (H.S.G.-II) w.e.f. 1-7-1992. The applicant's case is that he has been harassed by respondent Nos. 4 and 5 by transferring him frequently from the year 1991. Now when he is posted at the Head Post Office,

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Kota, he has been transferred by order Annexure-A1 dated 14-5-1996 to Chhipabardon after a lapse of about 16 months of his posting at the Kota Head Office. He has 3 children studying in schools and colleges in Kota and his father aged about 90 years cannot be shifted to another place. The tenure of a Postal Clerk is 4 years as provided under Rule 60 of the P&T Manual Vol.IV and the applicant has never been allowed to complete his tenure at one place. There are no educational facilities at Chhipabardon and education of his children would seriously be affected if he is transferred out of Kota.

3. The respondents have filed reply today, copy of which has been given to the counsel for the applicant. The reply has been perused by us. The respondents have pointed out that right from 1990 to 1996 before the transfer of the applicant by order Annexure-A1, the applicant remained posted at various Post Offices within Kota city itself. So all the transfers which have been assailed by him are within the same town.

4. The learned counsel for the applicant stated that transfers even within the same town can cause hardship to an official if the place is located at a longer distance from the place of his residence or from the place of his earlier posting. He has stressed that the provision of Rule 60 of the P&T Manual Vol.IV lays down tenure of 4 years for a person of his designation and in the last place of posting he had not completed his tenure of 4 years.

5. The learned counsel for the respondents stated that some of the transfers effected were on the applicant's own request and that he had

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been on deputation to the Head Post Office since 8-4-1995. The applicant is ⁱⁿ a Supervisory grade and a supervisory officer is required to be posted at Chhipabared. That is why the applicant was transferred to that place.

5. We have heard the learned counsel for the parties and have gone through the material on record. The OA is being disposed of at the stage of admission with the consent of the parties.

6. It is undisputed that from 1980 to 1996 the applicant remained posted within Kota although he has been shifted from one office to another within Kota. The transfer vide Annexure-A1 is his first transfer outside Kota city. We have gone through the provisions of Rule 60 of the P&T Manual Vol. IV. The rule provides that the posts specified therein should not ordinarily be occupied by the same official continuously at a time ^{for} more than the period shown against each. The period of 4 years has been mentioned against various posts. According to the applicant his post is covered by the posts mentioned in Rule 60. Even if it is so, the provision of the rule is that the same official should not occupy the post specified therein ordinarily for more than 4 years. This Rule, therefore, ~~so~~ where lays down the tenure of the posts specified in the Rule and in any case the expression "ordinarily" has been used to denote that even this provision is not absolute. No doubt, some hardship may possibly be caused to the applicant on account of his transfer outside Kota but such hardship, if any, is implied in the government servant accepting the job under the government and the transfer is an incident.

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of service. No statutory rules have been violated by the respondents by transferring the applicant out of Kota nor has ^{the} applicant alleged any specific malafide on the part of any official who has ordered his transfer. There are vague averments of harassment by respondents Nos. 4 and 5. Apart from stating that they have been transferred the applicant from one office to another within Kota, he has not specified what exact harassment has been caused to the applicant by them.

7. In the circumstances, we find no merit in this OA and it is dismissed with no order as to costs. However, the applicant is free to make representation with regard to his grievance to the respondents and it is up to them to consider it appropriately.


(Ratan Prakash)

Judicial Member


(O.P. Sharma)

Administrative Member