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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Date of order: 09-01-1997

OA No. 589/1996

Munir Khan Son of Shri Mohammad Khan, R/o village Alipur,
Tehsil Weir, District Bharatpur at present working as
E.D.M.C. II Alipur, Sub Division Nadbai, Distt. Bharatpur.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of
Communications, Department of Posts, Dak Bhavan,
New Delhi.
2. Sub Divisional Inspector (Post Office), Nadbai
Sub Division, Distt. Bharatpur.

.. Respondents

Mr. B.M.Gurjar, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

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

Hon'ble Mr. Ratan Prakash, Judicial Member

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

In this application under Section 19 of the
Administrative Tribunals Act, 1985, Shri Munir Khan
has prayed that the order dated 4-9-96 (Ann.A1) by
which the applicant, while working on the post of
E.D.M.C.II Alipur, Sub Division Nadbai, has been
adjusted/transferred as E.D.D.A., Alhegarh may be
quashed.

2. The applicant's case is that he has been
working at Alipur since 24-10-80. The respondent No.2
issued an order dated 4-9-96 (Ann.A1) transferring

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the applicant and adjusting him against the post of E.D.D.A. at Akhegarh. The applicant made a detailed representation against the said adjustment/transfer vide Ann.A2. A representation on behalf of the applicant was also made by the union in this regard on 10-9-96 (Ann.A3). The policy of the Government is that under no circumstances the members of the Extra Departmental service be transferred, as seen from the order dated 11-11-88, extracts of which has been reproduced in the CA. The applicant's claim is, therefore, that in view of these instructions, the applicant is not liable to transfer from the post of E.D.M.C. II, Alipur.

3. The respondents have filed their reply in the registry today. They have contended that there were two E.D.M.Cs. at Alipur but their services were not being fully utilised. Therefore the S.P.O., Bharatpur vide letter of February, 87 ordered that one post of E.D.M.C. may be converted ⁱⁿ to that of E.D.D.A. and the incumbent may be adjusted as E.D.D.A. at Akhegarh. The applicant was ordered to be transferred to Akhegarh because the earlier incumbent had retired and the post had fallen vacant. The applicant has not joined as E.D.D.A. at Akhegarh and has proceeded on leave on production of medical certificate. The respondents have claimed that their action in adjusting/transferring the applicant at Akhegarh is legal and justified.

4. The learned counsel for the applicant maintained that rule do not provide ^{for} any transfer of Extra Departmental Agent or employee from one place to another and therefore, the applicant's transfer was not justified. Moreover, the place to which the applicant has been transferred

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is about 30 Kms. away and it causes great inconvenience to the applicant to perform his duties at the new place of posting. The learned counsel for the respondents stated during the arguments that since it has been decided, keeping in view the exigencies of the work, that one post of E.D.M.C. at Alipur was to be kept vacant, the respondents instead of discharging the applicant from service, decided to utilise his services at Akhegarh where a post had fallen vacant on account of retirement of the incumbent. Therefore, there was no irregularity or illegality in adjusting/transferring the applicant from Alipur to Akhegarh.

5. We have heard the learned counsel for the parties and have gone through the material on record. On a careful reading of the instructions in this regard, we find that there is no absolute bar to the transfer of the applicant from one place to another or from one post to another. Also, the preliminary objections of the respondents do not stand in the way of our disposing of the OA on merits.

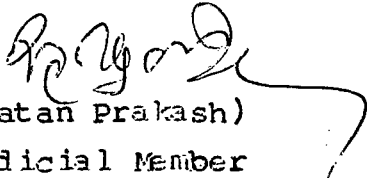
6. In view of the position that respondents, keeping in view the exigencies of the work, decided not to fill up the second post of E.D.M.C. at Alipur, they have, instead of discharging the applicant from service, decided to adjust him against another equivalent post at a place which is not too far away from his earlier place of posting. We cannot, therefore, interfere with the adjustment/transfer of the applicant from Alipur to Akhegarh. However, we direct that if the remaining post of E.D.M.C. at Alipur falls vacant, the applicant should be considered for transfer to Alipur on a priority basis, or if the respondents decide in future to fill up the second post of E.D.M.C. also at Alipur,


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they shall in that situation also consider adjustment/
transfer of the applicant at Alipur against the said
post, before transferring/posting anyone else.

7. The OA is disposed of at the stage of admission
with these observations. No order as to costs.


(Ratan Prakash)
Judicial Member


(O.P.Sharma)
Administrative Member