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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A. No.370/97

Date of order: 9.3.1998

Gopal Gehlot S/o Sitaram, aged about 41 years, R/o Shriram Bhawan, Ward No.7, Mandawa, Distt. Jhunjhunu and working as Postal Assistant, Mandawa, Distt. Jhunjhunu.

: Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Post, Ministry of Communications, New Delhi 110001.
2. Director Postal Services Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu- 333001.
4. Shri R.B.Goyal, Superintendent of Post Offices, Jhunjhunu - 333001.

: Respondents

Mr. K.L.Thawani, counsel for the applicant
Mr. K.N.Shrimal, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

The applicant Shri Gopal Gehlot has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to quash the impugned order dated 4.3.1997 as at Annexure A-1 by which the applicant has been transferred from Mandawa to Chirawa with a further prayer that the respondents be directed not to transfer him till completion of tenure as per rules.

2. Facts largely not in dispute are that the applicant is serving as a Postal Assistant in the respondent Postal Department. After completing his tenure of four years as Sub Postmaster Hanumanpura, he made a request to

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transfer him to Mandawa at his own request. This request was accepted by the then Superintendent of Post Offices, Jhunjhunu (Shri P.N.Meena) and vide order dated 17.4.1997 (Annx.A-2) he was posted as Postal Assistant, Mandawa Post Office at his own cost. He was not paid any T.A. & D.A. also.

5 3. It is the grievance of the applicant that suddenly by the impugned order dated 4.8.1997 (Annx. A-1) i.e. after only about three months the applicant has again been ordered to be transferred to Chirawa. The impugned order has been challenged on the basis of it being in violation of departmental rules and also in violation of the principles of natural justice besides being against the compelling circumstances of the family including the education of the children.

5 4. The respondents have opposed this application by filing a reply to which the applicant has also filed a rejoinder and thereafter the respondents filed an additional reply to the rejoinder filed by the applicant. The stand of the respondents has been that the transfer of the applicant vide order dated 17.4.1997 to Mandawa has been irregular as it has been a posting in excess of the sanctioned strength. The sanctioned strength at Mandawa Post Office has been ; one Sub Post Master, two Postal Assistants and one Leave Reserve Postal Assistant. Since the applicant has been the fifth person in this Post Office, hence, after assessment of the strength at various Post Offices including the Mandawa Post Office, the applicant has been transferred to Chirawa vide order dated 4.8.1997. Regarding the posting of Shrawan Kumar to Mandawa, it has

been averred by the respondents that Shravan Kumar was posted on deputation basis to clear the arrears in that Post Office and as soon as the work was done, he has now joined back at Mandawa. It has also been averred by the respondents that Shri Shravan Kumar also could not be shifted to Chirawa from Mandawa since he has not completed his tenure and his transfer would have been in violation of Clause (3) of the Rotational Transfers Policy Guidelines issued for the year 1997-98.

5. I have heard the learned counsel for the applicant as also for the respondents and have examined the record in great detail. With the consent of the parties, this OA is being disposed of at the stage of admission.

6. It is undisputed that the applicant was posted to Mandawa at his own request, though it has been averred by the respondents that his transfer to Mandawa has been irregular and was affected by the then Superintendent of Post Office Shri P.N.Meena. However, as the facts emerged it is clear that instead of shifting Shri Shravan Kumar who has joined duties at Mandawa on 6.6.1993, the applicant has been ordered to be shifted to Chirawa vide the impugned order dated 4.8.1997. It is true that the respondent department is taking disciplinary action against the official who has been at a mistake, but that does not give the respondents a right to shift a person when he has been transferred at his own request and for which he has not been paid any T.A. & D.A.

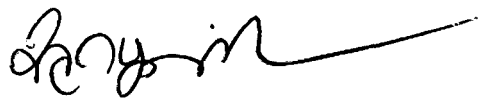
7. In view of the facts and the policy guidelines for rotational transfers made use of by the respondents for

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the year 1997-98, it cannot be said that Clause (3) of this policy should be used in favour of one official and against the interest of another official. The respondents should set the things right at their own level looking to the pleadings of the applicant and also keeping in mind that the respondents have not exercised their discretion properly in the shifting of the staff more particularly in the case of the applicant vis-a-vis a person Shravan Kumar who has not been made a party. Since the period of annual transfer is also approaching in the month of April, 1998, it would be in the interest of justice that the applicant is allowed to continue at Mandawa till the end of April, 1998.

8. Consequently, the interim direction issued on 8.9.1997 is made absolute till the respondents implement their policy guidelines of shifting the official on an annual basis in the month of April, 1998. The respondents however, would be free to exercise their discretion regarding general transfers in the month of April, 1998 as per their policy guidelines as at Annexure R-3 or any directions in this regard afterwards.

9. The O.A. is disposed of accordingly with no order as to costs.


(Ratan Prakash)
Judicial Member