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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.396/97

Date of order: 10.12.1997.

Chhoturam : Applicant

Vs.

1. Union of India through the Secretary to the Govt. of India, Deptt. of Post, Ministry of Communication, New Delhi-1.

2. Director Postal Services Rajasthan, Western Region, Jaipur.

3. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu - 331 001.

4. F.B.Goyal, Superintendent of Post Offices, Jhunjhunu.

..Respondents.

Mr.K.L.Thawani - Counsel for applicant

Mr.K.N.Shrimal - Counsel for respondents.

CORAM:

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

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Chhoturam has prayed that the order Anxx. Al dated 4.8.1997 by which the transfers of various officials were effected by respondent No.3 and by which the applicant was transferred from Udaipurwati to Chirawa may be quashed and the respondents may be directed not to effect transfer of the applicant from Udaipurwati till the completion of his tenure, as per rules.

2. The facts of the case as stated by the applicant are that he has been working as Postal Assistant in Udaipurwati Post Office since June 1996. He had been transferred to Udaipurwati vide order dated 30.5.1996 at his own request and at his own cost, after he had completed his tenure of 4 years at Gudhachanderji Post Office. The applicant has now all of a sudden been transferred as Postal Assistant, Chirawa, vide

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order dated 4.8.1997 (Annex.A1) i.e. after completing only about 12 months at Udaipurwati, whereas the normal tenure of a Postal Assistant at one place is 4 years. The applicant has family problems and to take care of the education of his children he sought the transfer at his own request and at his own cost at Udaipurwati. The transfer to Chirawa has caused the applicant a lot of inconvenience. The transfer is also malafide as there were in fact no grounds for effecting the transfer of the applicant in such a short period.

3. The applicant has also sought an interim direction to the effect that pending disposal of the O.A the order of transfer of the applicant should be stayed. The Tribunal vide order dated 23.9.1997 had directed that the order Annex.A1 shall not be enforced qua the applicant unless of course the applicant has already been relieved.

4. A separate Contempt Petition has also been filed by the applicant bearing No.29/97 alleging that the respondents have not complied with the directions of the Tribunal and have therefore, ^{been} guilty of contempt of court. This contempt petition is being considered separately.

5. The respondents in their reply have stated that one Shri P.N.Meena, Superintendent of Post Offices, Jhunjhunu Division had accepted the applicant's request for transfer to Udaipurwati as a result of which the applicant had joined there on 1.6.1996. The successor of Mr.P.N.Meena, Superintendent of Post Offices, Jhunjhunu Division, subsequently reported that excess postings had been made in various Post Offices during the tenure of Mr.P.N.Meena and one excess posting had made at Udaipurwati as well on account of the transfer of the applicant to that Post Office. An enquiry into the matter was got conducted at higher level and the excess postings were undone by passing orders transferring the officials concerned from the

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Post Offices. It was in consequence of this decision taken as a result of the enquiry conducted at the higher level that the applicant was transferred from Udaipurwati to Chirawa vide order Anxx. Al dated 4.8.97. The respondents have added that the place to which the applicant has now been transferred is not far away from Udaipurwati and the education of his children is not likely to suffer.

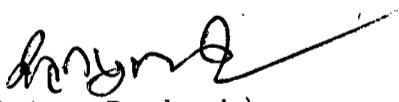
6. The applicant has filed a rejoinder to the reply filed by the respondents wherein he has stated that 3 officials were transferred to Udaipurwati Post Office even after the applicant had been transferred from there on the ground that his posting at Udaipurwati was in excess of the sanctioned strength. To this rejoinder, the respondents have also filed what they have described as a reply to the rejoinder in which they have stated that on the date on which the applicant joined at Udaipurwati namely on 1.6.1996, his posting was in excess of the sanctioned strength. There were already four posts of Postal Assistant including a leave reserve at Udaipurwati when the applicant joined there on 1.6.96. Against the four sanctioned posts at Udaipurwati three persons who were already working there had completed their tenure and therefore they were transferred out of Udaipurwati and in their place three other persons were posted, after of course the applicant had joined there on 1.6.96. Therefore, according to them the position of those three persons who were transferred to Udaipurwati after the posting of the applicant there ~~was~~ was naturally a different footing.

7. We have heard the learned counsel for the parties and Shri R.B.Goyal, Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu, respondent No.3, and have perused the material on record.

8. The applicant was transferred to Udaipurwati at his own

request and at his own cost. May be there was an error committed by the then Superintendent of Post Offices, Jhunjhunu Division, in transferring the applicant to Udaipurwati when his posting amounted to going beyond the sanctioned strength of posts of Postal Assistant at Udaipurwati. Even if there is any administrative justification for transferring certain persons to Udaipurwati after 1.6.96 on which date the respondents claimed that the applicant's posting was in excess, the proper course of action for the respondents would have been to make an adjustment against this so called excess posting at the time of making transfers of persons who had completed their tenures and against whom other persons were to be posted at Udaipurwati. However, our directing the respondents to post the applicant back at Udaipurwati would amount to creating an imbalance with regard to the sanctioned strength of posts there. In these circumstances a proper course of action for the respondents would be to accommodate the applicant in any Post Office within a radius of about 15 Kms from Udaipurwati at the time when annual postings and transfers are take place in the month of April 1998. Respondent No.3 undertakes to take action accordingly. For the present, however, the applicant will join back on duty at Chirawa and continue there till he is transferred back in April 1998, as per the undertaking given by respondent No.3.

9. The O.A stands disposed of accordingly at the stage of admission. No order as to costs.


(Ratan Prakash)

Judicial Member.


(O.P. Sharma)

Administrative Member.