

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 73/1998
T.A. No.

199

DATE OF DECISION 22.5.1998

Jagdish Prasad

Petitioner

Mr. P.N.Jati

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr. K.N.Shrimal

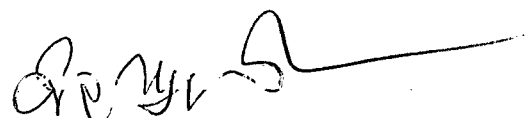
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. EATAN PRAKASH, JUDICIAL MEMBER

The Hon'ble Mr.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
- ✓ 2. To be referred to the Reporter or not ? *yes*
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?



(EATAN PRAKASH)
JUDICIAL MEMBER

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No. 73/1998

Date of order: 22.5.1998

Jagdish Prasad S/o Shri Mangi Lal aged about 36 years resident of Near Subji Mandi, Kharda Phulera now a days working in the office of the Railway Mail Service, Phulera on the post of Mail Man.

.. Applicant

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur
3. The Senior Superintendent, Railway Mail Service, Jaipur Division Jaipur.

.. Respondents

Mr. P.N.Jati, counsel for the applicant

Mr. K.N.Shrimal, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Shri Jagdish Prasad has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek a direction to the respondents not to transfer the applicant from Phulera to Jhunjhunu in compliance of the order dated 13.2.1998 (Ann.A1) and to quash this impugned order.

2. At the time of issuing a short notice the operation of the impugned order dated 13.2.1998 (Ann.A1) was stayed. The respondents have put an appearance and have filed a reply to which the applicant has also filed a rejoinder.

3. The facts relevant for disposal of this application at the stage of admission are that while the applicant was working at



(7)

Jhunjhunu on the post of Mail Man with the respondent Department, he made a request to go on deputation to Phulera. The respondents thereafter sent the applicant to Phulera on deputation vide order dated 9.9.1996 (Ann.A2) and he joined his deputation there on 12.9.1996. According to the applicant thereafter he was transferred from Phulera to Jhunjhunu vide order dated 19.6.1997 (Ann.A4). He made a representation to the Chief Postmaster General, Rajasthan on 10.7.1997 (Ann.5). The Circle Secretary of the All India P.M.S. Employees Union has also supported his request vide their letter dated 10.7.1997 (Ann.A6). The respondent No.3 i.e. Senior Superintendent, Railway Mail Service, Jaipur Division, Jaipur thereafter cancelled the order of deputation dated 19.6.1997 vide his order dated 23.7.1997 (Ann.A7).

4. The grievance of the applicant is that though he has been working continuously at Railway Mail Service, Phulera since 12.9.1996, he has again been transferred by the impugned order dated 13.2.1998 (Ann.A1) against rules and regulations of the Department. He has, therefore, sought the aforesaid relief.

5. The respondents have contested this application on the ground that the applicant was sent on deputation to Phulera at his own request though on his earlier request the order of cancellation of deputation dated 19.6.1997 (Ann.A4/Ann.R5) was cancelled vide order dated 23.7.1997 (Ann.A7/R7). It is urged that since the posting of the applicant has been only on deputation, his deputation has been rightly cancelled vide the impugned order dated 13.2.1998 (Ann.A1) and that he has been directed to join his parent Department as Mail Man at SRO RMS, Jaipur Division, Jhunjhunu, hence the application deserves rejection.

6. The applicant in his rejoinder has also taken the ground that it is with a view to accommodate one Shri Babu Lal Panchal



that the deputation/transfer order has been cancelled.

7. I heard the learned counsel for the applicant Shri P.N.Jati and Shri K.N.Shrimal, learned counsel for the respondents at a great length and have examined the record in great detail. From a perusal of the pleadings, it is made out that it was at his own request made on 30.7.1996 (Ann.R3) that the applicant was sent on deputation to Phulera vide order dated 9.9.1996 (Ann.A2). This deputation order of 9.9.1996 though earlier cancelled vide order dated 19.6.1997 (Ann.R5) by the respondents; after consideration of the representation of the applicant made on 25.5.1997 (Ann.R6) was cancelled vide order dated 23.7.1997 (Ann.R7). It is after this cancellation that the applicant continued to remain at Phulera till his deputation order dated 9.9.1996 has been ultimately cancelled vide impugned order dated 13.2.1998 (Ann.A1). Through this order he has been directed to be relieved and to join his parent unit as Mail Man at SRO, Jaipur Division, Jhunjhunu.

8. It has been vehemently argued by the learned counsel for the applicant that after cancellation of the deputation order dated 9.9.1996, he be treated to have been transferred to Phulera and accordingly he had also complied with the formalities required under Rule 38 of the P&T Manual. It has, therefore, been urged that since the respondents now want to accommodate one Shri Babu Lal Panchal, the impugned order Ann.A1 is malafide and should be quashed.

9. It is to be noted that while the applicant approached this Tribunal by filing this OA, he had mainly sought cancellation of the impugned order alleging that the order has been issued in the middle of the academic session the applicant's children's education would suffer; and that the impugned order be cancelled and he be allowed to continue at Phulera. It is urged that though originally the applicant has sought a deputation to

On

Phulera and he has succeeded in getting the cancellation of the order dated 19.6.1997 cancelling his deputation vide order dated 23.7.1997; his placement at Phulera has matured into transfer and that he now cannot be shifted from Phulera. In this regard the stand of the applicant throughout has been that he has been at Phulera on deputation which is evident not only from his initial application dated 30.7.1996 (Ann.R3) but also his subsequent request made vide his application dated 25.6.1997 so as to allow him to continue at Phulera. If there had been any malafide on the part of any of the respondents (though none of the respondents have been made party by name in this OA) they could have sent and posted anyone at Phulera while issuing earlier order also on 19.6.1997. It appears from a copy of the order dated 24th February, 1998 (Ann.A15) to the rejoinder of the applicant that after the cancellation of the deputation order of the applicant vide order dated 13.2.1998 (Ann.A1); one Shri, Babu Lal Panchal has been ordered to be posted there. However, since there has been a stay granted by the Tribunal vide its order dated 11.3.1998; it could not be complied with.

10. Accordingly, this case is virtually not of transfer but of the cancellation of a deputation order. It is for the administrative authorities of the respondent Department to see how to manage their whole affairs in the exigencies of service. In view of this the authorities placed by the learned counsel for the applicant in support of his arguments i.e. Madhusudan Mishra v. Union of India and Ors., (1993) 23 ATC 919 and B.S. Verma v. Union of India and Others, (1994) 26 ATC 313 being related to the transfer of employees and not of employees on deputation are of no help to the applicant. Moreover, the orders having been issued in February, 1998 and that the academic session must have come to an end or is coming to an end, there



(10)

does not remain any grievance of the applicant about any disturbance of education of his children. Because sometimes shifting of employees from one place to another has to be done by the executive authorities after taking into consideration the request of the employees also. The applicant herein having been sent on deputation at his own request and the academic session being also coming to an end, there remains no ground for cancellation of the impugned order dated 13.2.1998 (Ann.A1).

11. The OA is, therefore, dismissed at the stage of admission with no order as to costs. The interim direction issued on 11.3.1998 stands vacated.



(Ratan Prakash)

Judicial Member