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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 12.10.98

OA 215/98

Hiralal, Cash Overseer, Head Post Office, Chirawa, Distt. Jhunjhunu.

... Applicant

Versus

1. Union of India through the Secretary to the Govt., Department of Posts, Ministry of Communications, New Delhi.
2. Postmaster General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu.
4. R.B.Goyal, Supdt. of Post Offices, Jhunjhunu Division, Jhunjhunu.
5. Behari Lal Sharma, Inspector of Post Offices, Chirawa Sub Division, Chirawa.
6. Prabhu Lal Saini, Mail Overseer, Chirawa Sub Division, Chirawa.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

For the Applicant ... Mr. K.L. Thawani
For the Respondents ... Mr. M. Rafiq

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Hiralal, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, challenging his transfer from the post of Cash Overseer, Chirawa, to that of Mail Overseer, Chirawa.

2. Heard the learned counsel for the parties. Records of the case have been carefully perused.
3. Applicant's case is that he had been working as Cash Overseer, Head Post Office, Chirawa, in the Jhunjhunu Postal Division, since May, 1997 and before his posting as Cash Overseer he was working as Mail Overseer for about more than six years. Duties of Mail Overseer are touring duties to supervise about 25 to 30 Branch Post Offices and the duty of Cash Overseer is to supply cash from the Head Post Office to the needy Sub Post Offices. Since the applicant while working as Mail Overseer, Chirawa, sustained injuries on his head and right side of the body due to an accident on the road, he had made a request to the Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu, to post him as Cash Overseer. The Superintendent of Post Offices, Jhunjhunu, considered the request of the applicant in 1997 and posted him as Cash Overseer, Head Post Office, Chirawa. He resumed duty as Cash Overseer, Chirawa, in May, 1997 but after about 10 months he has been transferred back

as Mail Overseer, Chirawa, only with a view to accommodating respondent No.6, Shri Prabhu Lal Saini. The applicant made several representations thereafter but they were of no avail. The transfer order has now been assailed on the ground of its being violative of Articles 14 and 16 of the Constitution as the transfer has been made to accommodate respondent No.6, Shri Prabhu Lal Saini at his request. It is also contended that the transfer order is not an order of transfer simpliciter but it is punitive in nature. The learned counsel for the applicant has relied on (1991) 15 ATC 36, D.R.Sengal Vs. Chief Postmaster General and Others, wherein it has been observed at page 40 as follows :-

"8. So far as Mr.Raval is concerned the petitioner has been ordered to be transferred on 19.11.1985 from Naroda to Gandhinagar and in June 1989 from Gandhinagar to Bhuj. In the same order K.C.Raval has been ordered to be transferred from Rajkot to Gandhinagar at his own request and cost. To claim in the same breath that the petitioner is transferred in public interest and that Mr.Raval was accommodated at Gandhinagar but that petitioner's transfer was not due to accommodating Mr.Raval without disclosing how the vacancy at Bhuj arose or what was the exigency of the transfer of the petitioner is not to discharge the onus on the respondent regarding the transfer being mala fide or arbitrary. In reply the respondents said that Mr.Raval had made a request for transfer to Gandhinagar earlier as he was expecting promotion. This explanation makes it reasonable to interpret that he was accommodated at Gandhinagar in the vacancy caused by the petitioner to be transferred to Bhuj. Accommodating Mr.Raval and retaining Mr.Patel together raises a strong presumption in favour of petitioner regarding discrimination and arbitrariness of the orders."

4. On the other hand, the respondents have stated that the transfer order is neither arbitrary nor was it made with any mala fide intention. In fact, respondent No.6 namely Shri Prabhu Lal Saini moved an application on 2.3.98 stating therein that he was 56 years of age and suffering from high blood pressure and due to his ailments he was unable to perform touring duties. It was also stated by respondent No.6 that his eldest son has expired on 10.2.98 leaving his widow and three children, who are to be looked after by him. It was due to the sudden death of his eldest son that he had requested for his transfer as Cash Overseer, Chirawa, and keeping in view the age of the aforesaid official and his genuine difficulties and circumstances, the applicant was transferred locally as Mail Overseer, Chirawa, vide memo dated 6.3.98. Now Shri Prabhu Lal Saini, respondent No.6, is working as Cash Overseer since 9.3.98. It is true that the applicant has worked as Mail

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Overseer from 1.2.90 to 5.5.98 but every government servant is supposed to work with sincerity as per the administrative exigencies and in the public interest at large. It has been categorically stated by the respondents that the transfer of the applicant was made in the administrative exigencies. The duty station has not been changed. The applicant has to remain at his headquarters i.e. Chirawa for two weeks in a month and has to go out on tours. He can very well look after his family at Chirawa. If the applicant had any grievance against Shri Behari Lal Sharma, respondent No.5, who is the Inspector of Post Offices, the applicant should have complained against him to the higher authorities. In the circumstances, the transfer order cannot be said to be arbitrary or punitive in nature.

5. I find no merit in this application. It is, therefore, dismissed with no order as to costs.

GK
(GOPAL KRISHNA)
VICE CHAIRMAN

VK