

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIFUR BENCH, JAIFUR.

O.A No.503/2000

Date of order: 15/3/2001

Amar Lal Verma, S/o Sh.Ramratanji, R/o Opp.Telephone Exchange, Ramganj Mandi, Kota, presently posted as Sub Post Master, Ramganj Mandi Post Office.

...Applicant.

Vs.

Union of India through Secretary to the Govt of India, Deptt. of Posts, Mini. of Communication, Dak Bhawan, New Delhi.

2. Post Master General, Rajasthan Southern Region, Ajmer.

3. Sr.Supt. of Post Offices, Kota Postal Division, Kota.

...Respondents.

Mr.C.B.Sharma - Counsel for the applicant.

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

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

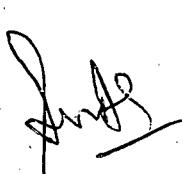
PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the impugned order dated 14.9.2000 by which the applicant was transferred from Ramganj Mandi to Jhalawar and the letter dated 16.10.2000 by which the representation of the applicant has been rejected. A further direction also sought to direct the respondents to allow the applicant at Ramganj Mandi till his tenure or till completion of the academic session.

2. In brief facts of the case as stated by the applicant are that the applicant is working as Postal Assistant since 1968. It is stated that in 1995 the applicant was posted as SPM Phawani Mandi and after completion of tenure, he was transferred to SPM Kota City, vide order dated 23.6.2000. Thereafter his place of posting was changed from Kota City to

AFM(SE) New Grain Mandi, Kota vide order dated 29.6.2000. Thereafter the applicant made a request for his transfer to Ramganj Mandi and his request was considered by transferring the applicant at his own cost vide order dated 11.7.2000 but again he was transferred from Ramganj Mandi to Jhalawar without any rhythm or reason. The applicant preferred representation but the same was rejected vide letter dated 16.10.2000. It is stated that frequent transfers of the applicant without any rhythm or reason is not justified and therefore arbitrary. It is also stated that the applicant is seniormost, therefore, he is entitled to hold the post of Sub Post Master at Ramganj Mandi in view of the policy framed by the respondents' department. It is also stated that the transfer of the applicant is midsession transfer and if this transfer is effected the education of his children will suffer. It is further stated that the respondents have vacant post at Ramganj Mandi where the applicant could have been easily adjusted. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant being senior was required to be posted at a place of greater importance in the interest of administration. The post of Post Master Jhalawar is very important than the post of SPM Ramganj Mandi. It is stated that there is no post of HSG II Supervisor at Ramganj Mandi but the applicant managed voluntary transfer to Ramganj Mandi to the post of SPM displacing Amar Lal Mehra who made representations and his representation was allowed. Therefore, under these circumstances the applicant was transferred in administrative interest. It is stated that transfer is the incidence of service and the applicant has no right to remain at a particular place. It is also stated that due to stay order



obtained by Smt. Madhuri Joshi, the transfer of the applicant as SPM Kota City could not be implemented. It is stated that it is not a case of frequent transfer and the applicant was transferred as Post Master Jhalawar, according to his seniority. It is also stated that there are better schools and educational facilities at Jhalawar in comparison to Ramganj Mandi and there was no vacant post of SPM in Ramganj Mandi. Therefore, the applicant has no case and the O.A devoid of any merit is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. Transfer is an incident of service and an employee has no right to remain at a particular place. An employee can be transferred from one place to another in administrative exigencies and Courts or Tribunal can only interfere if there is a malafide or violation of statutory rules in transferring the person concerned.

6. In Shilpi Bose Vs. State of Bihar, 1992 SCC (L&S) 127, the Hon'ble Supreme Court has observed that even if transfer order are issued in violation of executive instructions, the court ordinarily should not interfere with the said order and affected parties should approach the higher authorities in the department. It is for the administration to take appropriate decision in the matter of transfer on administrative grounds.

7. In Home Secretary U.T Chandigarh Vs. Darshjeet Singh, 1993(4) SCC 25, it was held by Hon'ble Supreme Court that executive authority has a power to transfer an employee even if one has not completed normal tenure and can also be allowed to continue even after the said normal tenure.

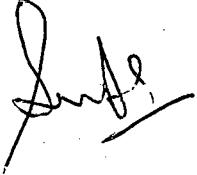
8. In N.K. Singh Vs. UOI, 1994 SCC(L&S) 1130, Hon'ble Supreme Court held that only realistic approach in transfer matters is to leave it to the wisdom of the superiors to take

the decision unless the decision is vitiated by malafide or infraction of any professed norms or principle governing the transfer which alone can be scrutinised judicially.

9. In State of M.F Vs. S.S.Kaurav, 1995 SCC(LS) 666, the Hon'ble Supreme Court held that transfer order which is not malafide and not in violation of service rules and issued with proper jurisdiction, cannot be quashed by the court.

10. In Abani Kanta Roy Vs. State of Orissa, (1996) 32 ATC 10, Hon'ble Supreme Court held that 'it is settled law that a transfer which is an incident of service, is not to be interfered with by the court unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any professed norm or principles governing a transfer.'

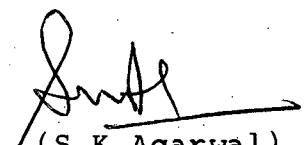
11. In the instant case, it is not the case of the applicant that he was transferred malafidely and against the statutory norms. According to the applicant himself, he was posted at Bhawani Mandi in the year 1995 and transferred to Kota City vide order dated 23.6.2000 and his place of posting was changed from Kota City to New Grain Mandi due to stay order obtained by Smt. Madhuri Joshi. Thereafter, the applicant sought his transfer at his own request at Ramganj Mandi and in the last the applicant was transferred to Jhalawar. In view of the facts as stated above, it is not a case of frequent transfer and the respondents have fully explained in the reply that the transfer of the applicant by the impugned order dated 14.9.2000 from Ramganj Mandi to Jhalawar was done in administrative exigencies of service as the applicant was senior who was required to be posted on senior position. The applicant also failed to explain as to how the education of his children would suffer because of the impugned transfer. No description has been given regarding the education of his children in the O.A. Therefore, merely that the transfer was



made in the month of September does not require any interference merely on the ground that the applicant's children will suffer. It was the duty of the applicant to establish the fact that because of the midsession transfer education of the children will suffer whereas the respondents' department has categorically stated that there are better educational facilities available at Jhalawar in comparison to Ramganj Mandi which has not been refuted.

12. In view of above, I am of the considered opinion that the applicant has no case for interference by this Tribunal and the O.A devoid of any merit is liable to be dismissed.

13. I, therefore, dismiss the O.A having no merit with no order as to costs.


(S.K. Agarwal)

Member (J).