

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH JAIPUR

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Date of Order : 14.05.2003.

O.A. NO. 74/2003

M.H. Pathan S/o Late Shri Karim Khan aged about 59 years, resident of Pathno Ka Mohalla, Sikar. Presently working as Assistant Superintendent of Post Offices (Hq.) Office of Superintendent of Post Offices, Sikar Postal Division, Sikar.

.....Applicant.

versus

1. Union of India through Secretary to the Government of India,
Department of Posts,
Ministry of Communication, Dak Bhawan,
New Delhi - 110 001.
2. Post Master General, Rajasthan Western Region,
Jodhpur - 342 001.
3. Director, Postal Services,
Rajasthan Western Region,
Jodhpur - 342 001.
4. Superintendent of Post Office,
Sikar Postal Division,
Sikar.

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

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Mr. C.B. Sharma, Advocate, for the applicant.

Mr. B.N. Sandu, Advocate, for the respondents.

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ORDER

BY THE COURT :

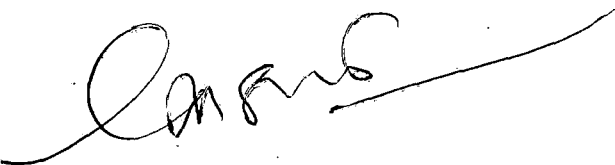
The applicant is Assistant Superintendent of Post Offices at Sikar. He has been transferred to Nagaur vide order Annexure A/1 dated 6.2.2003. He calls in question the order of transfer mainly on the ground that he is at the verge of retirement and the policy guidelines in the letter dated 7.12.1998 (Annex.A/4), have been violated. It is stated that applicant's transfer is neither in public interest nor on administrative exigencies.

2. In the counter, the respondents have stated that there is no violation of the transfer policy when the applicant has been transferred. It is stated that the applicant had in fact been transferred vide order dated 21.5.2002 but, his order of transfer was kept in abeyance vide Memorandum dated 18.6.2002 and, therefore, now the applicant has been ordered to proceed on transfer to Nagaur.

3. In the rejoinder, the applicant reiterates the facts stated in the O.A. Reply to rejoinder has also been filed today.

4. I have heard the learned counsel for the parties and considered the documents placed on record.

5. At the out set, it may be stated that it cannot be accepted that the applicant's transfer vide order dated 6.2.2003 is in continuation to the transfer order Annexure A/2 dated 21.5.2002. Vide order Annexure A/2 the applicant was transferred from Sikar to Sri Ganganagar. That order of transfer was kept in abeyance vide Annexure A/3 dated 18.6.2002. No further order was passed either cancelling the transfer order or the order withdrawing the abeyance order. Now, by the impugned order Annexure A/1, the applicant has



been transferred from Sikar to Nagaur. It has to be accepted that this transfer is not in continuation of the order Annexure A/2. It is the fresh order. It is not the case where the applicant has been directed to take charge at Sri Ganganagar in compliance of the order Annexure A/2 issued on 21.5.2002. Therefore, while considering the breach of the policy guidelines, the transfer order dated 6.2.2003 only shall be kept in mind.

6. In the policy guidelines of transfers, Annexure A/4, it is provided that the officials who have about a year or slightly more to go on 31st of March of the next year before superannuation should not be transferred as far as possible.

7. Admittedly, the applicant will superannuate on 31st of May, 2004. It is, thus, a case where the applicant had slightly more than one year as on 31st March, 2004 when the order Annexure A/1 was issued. It has, therefore, to be accepted that the applicant has been transferred in breach of the policy guidelines Annexure A/4.

8. In the counter, the respondents have not come out with the case that there were special circumstances necessitating the transfer of the applicant. Therefore, the exemption ought to have been given to the applicant from the rotational transfer in terms of the letter Annexure A/4.

9. In the matter of Hanuman Sahai Meena versus Union of India and others, O.A. No. 533/2000 decided on 12.1.2001, a Division Bench of this Bench of the Tribunal relying on a decision of the Rajasthan High Court in the case of Dr. (Smt.) Pushpa Mehta Versus Rajasthan Civil Services Appellate Tribunal and others - 2000 (2) WLC 725 and a decision of the Lucknow Bench of the Tribunal in Jitendra Kumar Saxena versus Union of India and others - 2000 (3) ATJ 657, observed



that an employee should be given sufficient time, which may be of two years or so to plan peacefully his/her post retirement life. It is significant to point out that the case of Hanuman Sahai Meena, was also of the Postal Department.

10. Since the respondents have not been able to show special circumstances on account of which, the applicant has been transferred in violation of the transfer guidelines, it is a fit case where the interference on our part is warranted.

11. Consequently, the O.A. is allowed. The order of transfer Annexure A/1 qua the applicant, is hereby quashed. During the course of arguments, it was pointed out that Shri H.P. Sharma, who was to join at Sikar, vide Annexure A/1, has already been given posting elsewhere. The applicant is continuing at Sikar on the basis of the interim order dated 14.2.2003 passed by this Tribunal.

12. No order as to costs.



(G.L. Gupta)
Vice Chairman

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