

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 609/2003

DATE OF ORDER: 19.2.2004

Padam Singh son of Shri Mangi Lal by caste Hindu aged about 55 years. Resident of 71/178, Pratap Nagar, Housing Board Colony, Sanganer, presently working as Accounts Officer O/o the Executive Engineer (Civil) Postal Civil Division, Jaipur.

Applicant

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.

2. Deputy Director, General, Postal Accounts and Finance, Dak Bhawan, Sansad Marg, New Delhi.

3. Chief Postmaster General, Rajasthan Circle, Jaipur.

4. Director of Accounts (Postal), Tilak Nagar, Jaipur.

Respondents

Mr. P.N. Jatti, Counsel for the applicant.

Mr. Tej Prakash Sharma, Counsel for the respondents.

CORAM:

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER

PER HON'BLE MR. J.K. KAUSHIK

Shri Padam Singh has filed this OA u/s 19 of the Administrative Tribunal's Act assailing the order dated 17.12.2003 by which he has been transferred from office of the Executive Engineer, Postal Civil Division, Jaipur to Postal Accounts Office, Jaipur on the post of Accounts Officer.

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2. The factual matrix of the case are that the applicant was initially employed in the Department of Post & Telegraph on 1.9.1971. He has been discharging his duties without any complaint. He has been transferred to adjust other person and that too in the mid term of the academic session and also at the end of the financial session which is troublesome to the applicant who has been working in the capacity of Accounts Officer. The applicant submitted a representation to the respondent No. 3 complaining that the transfer has been made against the rules and policy both but no response has been received. The OA has been filed on diverse grounds narrated in Para No. 5 and its sub paras of the OA. The extract of the relevant policy has also been produced in Para No. 5.4 and the grounds which we shall deal a little latter.

3. The respondents have resisted the claim of the applicant and have filed counter reply to the OA. The defence of the respondents as stated in the reply is that the applicant has been transferred in pursuance to the policy in vogue and he has not been transferred on the basis of any complaint as such. The applicant is holding a sensitive post and his transfer has not been made to adjust or accommodate any other person in his place. The grounds have been generally denied.

4. With the consent of the learned counsel for the parties, the case was heard for final disposal at admission stage. We have perused the pleadings and records of the case.

5. The learned counsel for the applicant has vigorously made his submissions and has reiterated the pleadings. He has submitted that his transfer is made in the mid term of the academic session which is against the very policy. He has also

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submitted that as per the policy invoked, the applicant can be transferred on completion of period of four years. His another contention is that he is being transferred only to adjust/ accommodate a person who is from Jodhpur. Further he has submitted that he has endeavoured to make every effort to do excellent job and the financial period is ending on 31.3.2004, and what he has done in this financial year, the credit of the same will go to somebody else and this finds support from his Controlling Authority who has also fortified the request of the applicant and desired that he should work till such period because of his excellent working. Thus the impugned order so far it relates to the applicant is arbitrary and deserves to be quashed.

6. Per contra, the learned counsel for the respondents has countered the submissions of the learned counsel for the applicant and has submitted that the transfer of the applicant has been made in accordance with the policy which is at Annexure A/3. It has been specifically provided that the persons who are holding the post of Sr. Accounts Officer/ Accounts Officer are to be transferred on completion of tenure of two years. He has also submitted that the applicant has been transferred from one place to another in Jaipur City itself and it will cause no damage to the studies of the children of the applicant. He has also submitted that the ground alleged by the applicant that he has been transferred to accommodate the other person is also groundless and there is no basis to the same. The other contention of the learned counsel for the respondents is that the transfer of the applicant has been made as per the rotational policy and no malafide has been alleged against anybody and no person has been impleaded as party by name. Thus the very OA is misconceived and deserves to be dismissed.

7. We have heard the rival contention raised on behalf of both the parties. At the outset, it is observed that the applicant

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has been transferred within the same city and transferring him in the mid term academic session has caused no loss to him. We are also constrained to observe that there is no whisper that any of the children of the applicant is studying in any of the school and the plea of mid-term academic session transfer is misconceived and cannot be sustained. Otherwise also since the transfer is at the same station, such plea cannot be sustained. As regards the policy, our attention was specifically drawn to Annexure R/3 which very specifically provides in respect of Sr. Accounts Officer and Accounts Officer that the tenure shall be only two years but the applicant has been kept a little longer. Thus he should not have any complaint regarding this. As regards the working that he should be allowed at his last place, it is for the Executives to see as to who will be the person to be employed at what place. It is not the Tribunal to decide. No malafide has been made against anybody. It is not the case of malafide case. Transfer is made in public interest. The settled position of law is that the transfer is not required to be a detailed order. The transfer order is in the interest of Administration until there is any other specific annotation. If that is so, the applicant has absolutely no case for interference.

8. The learned counsel for the applicant has also submitted that the applicant has submitted representation to the competent authority and direction may be given to the competent authority to decide the same. It is not the duty of the Tribunal to give such direction. As per the verdict of a Bench of the Tribunal, no such direction can be asked for. (SLJ 2002(2) CAT 230 G. Muthuswamy vs. The Divisional Personnel Officer SR & Others refers)

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9th The upshot of the aforesaid discussion is very unfortunate but we have no option but to dismiss the OA. The OA stands dismissed accordingly.

~~(A.K. BHANDARI)~~
MEMBER (A)

AKQ

~~J.K. KAUSHIK~~
MEMBER (J)