

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 08.11.2004

ORIGINAL APPLICATION NO. 614/2003

S.K. Meena son of Shri Ganga Ram Meena by caste Meena aged about 58 years, resident of Village Jatwara, Post Jatwara, Via Bansko District Jaipur, presently working as Postmaster Dausa.

....Applicant

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Superintendent Post Offices, Jaipur 'M' Dn. Jaipur.
4. Postmaster Dausa, Head Post Office, Dausa.

....Respondents

Mr. P.N. Jatti, Counsel for the applicant.
Mr. N.C. Goyal, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

The applicant who is working on the post of Assistant Post Master has filed this OA. The grievance of the applicant is that although he has been transferred from the post of Assistant Post Master Shahpura to Assistant Postmaster Dausa on completion of tenure vide order dated 11.6.2002 (Annexure A/2) but he has not been paid TA and Transit Allowance admissible under the rules and action of the respondents subsequently modifying the transfer order by treating transfer on 'own cost and request' instead of completion of tenure is arbitrary.

2. The notice of the OA was given to the respondents. The fact that transfer of the applicant vide order dated 11.6.2002 (Annexure A/2) was treated as completion of tenure has not been denied. It is stated that in the transfer order dated 6.11.2002 (Annexure A/2), it was erroneously mentioned that the transfer was on completion of tenure but since the applicant's application for transfer

10/

from Shahpura to Dausa was already on record, hence a corrigendum was issued vide Memo No. B-10-3/2002 dated 17.6.2002 treating the transfer of the applicant at his own request and cost before relieving from Shahpura to Dausa. Thus according to the respondents, the TA Bill dated 28.3.2003, which was submitted by the applicant was however not processed and the same was filed. The applicant was also informed vide order dated 01.08.2003 that his transfer was on 'own request and cost' from Shahpura to Dausa Head Office. The respondents have further stated in the reply that as per policy of transfer, the applicant could not be rotated in local post on completion of four years in Shahpura. It was not mandatory to transfer the applicant out of station as the tenure for out of station is five years.

3. The applicant has filed rejoinder. In the rejoinder, the applicant has specifically stated that as per Rule 60 of Volume IV Part A, the tenure period to work at a station is only four years and not five years as mentioned by the respondents. The applicant has also annexed photo copy of the Rules 60 of the P&T Handbook Volume IV. The applicant has also annexed photo copy of letter No. 17-3/94-PAP dated 18.12.1995 (Annexure A/5) issued by the Director General (Posts) New Delhi addressed to all concerned whereby it has been stated that transfer after completion of full tenure cannot be normally termed as a 'transfer on own request' as per SR-114 of the P&T Manual as well as instructions dated 18.12.1995 (Annexure A/5). The applicant reiterated that his transfer could not have been treated transfer on own request for the purpose of granting TA and Transit Allowance and it has to be treated as transfer for the 'Public Convenience' and it was incumbent upon the respondents to process claim as submitted by the applicant and to make payment to him accordingly.

4. I have heard the learned counsel for the parties and have gone through the material placed on record.

5. There is no dispute to the fact that the applicant has worked on the Post Assistant Postmaster Shahpura for more than four years, as applicant had worked on the post of Assistant Post Master Shahpura since 11.4.1998 till his transfer vide order dated 11.6.2002. The applicant has also annexed with the rejoinder the photocopy of the relevant extract of the provisions as contained in Volume IV of P&T Financial Handbook, ~~the~~ Rule 60 of the said volume ~~is~~ is in the following term:-

- 60. The following officials should not ordinarily be occupied by the same official continuously at a time for more than the period shown against each:-

- (1)
- (2)
- (3)
- (4) Clerks in General Post Offices or first Class head post offices dealing with staff cases - Four years
- (5)

49

(6)

6-A

It is not disputed that Assistant Postmasters belongs to the cadre of Clerk for the purpose of tenure. Thus normal tenure provided for transfer to the category of post held by the applicant is four years. The submission made by the respondents that the tenure for out of station is five years and the applicant has not completed the said tenure of five years and as such transfer was treated as transfer on own request cannot be accepted. Thus according to me, there is no infirmity in the order dated 11.6.2002 (Annexure A/2) whereby the transfer of the applicant from Assistant Postmaster Shahpura to Assistant Postmaster Dausa was shown as transfer on completion of tenure and it was not subsequently permissible for the respondents to issue corrigendum thereby treating the transfer of the applicant as 'own cost and request' instead of 'completion of tenure.'

6. The next question which require my consideration is whether the respondents were justified in not making the payment of transfer TA Bill to the applicant. For this purpose, answer lies in the instructions issued by the Director General (Posts), New Delhi dated 18.12.1995, which is in the following terms:-

A proposal to grant TA and transit to officials who are transferred on completion of tenure to the place of their choice was under consideration in this Directorate for sometime past.

SR-114 governs TA on Transfer distinguishes between transfer for public convenience and transfer on own request. Although transfer on completion of the tenure in one office has not been specifically referred to in this Rule, yet the transfer on completion of tenure as per as is a transfer for public convenience. On completion of tenure, the official has to be transferred out for operational reasons. Therefore, such a transfer is mandatory, while posting to a place of choice is secondary and subject to public convenience. In view of this posting to a place of choice after completion of full tenure may not be normally termed as a "transfer on own request" under SR-114.

It has, therefore, been decided that henceforth officials transferred after completion of full tenure as prescribed from time to time to the place of their choice will be entitled for TA and Transit.

7. Thus in view of the instructions quoted aforesaid, whereby the competent authority has decided that transfer after completion of full tenure cannot be normally termed as transfer on own request under SR-114 and such official transferred after completion of full tenure to the place of their choice shall also be entitled for TA and Transit Allowance, it was not permissible for the respondents to file the claim submitted by the applicant for payment of Transfer TA. Thus the action of the respondents in not making payment of TA and transit to the applicant is arbitrary and not in consonance with the policy decision taken by the Director General (Posts) New Delhi vide letter dated 18.12.1995 (Annexure

4

A/5) which has been reproduced in extenso herein above. Accordingly the contention raised by the respondents that tenure for transfer to out of station is five years and as such transfer of the applicant cannot be termed "on completion of tenure" cannot be accepted in view of provisions contained in Rule 60 of the P&T Manual Volume IV. Accordingly the respondents are directed to make payment of the TA Bill to the applicant, which was received by Respondent No.3 on 31.3.2003 as stated by them in the reply, within two months from the date of receipt of a copy of this order

8. With these observations, the OA is allowed with no order as to costs.


(M.L. CHAUHAN)
MEMBER (J)

AHQ