

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. 52 of 1998.

DATE OF DECISION 12.6.2000.

Shri Subhash Chandra Choudhury

PETITIONER(S)

S/Shri B.K.Sharma, S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Shri B.S.Basumatary, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE SHRI D.C. VERMA, JUDICIAL MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Judicial Member.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 52 of 1998.

Date of Order : This the 12th Day of June, 2000.

Hon'ble Shri D.C.Verma, Judicial Member.

Shri Subhash Chandra Choudhury,
Manager, Postal Stores Depot,
Guwahati-21.

... Applicant.

By Advocate S/Shri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India
represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi-1.
2. The Director General of Posts,
New Delhi.
3. The Chief Post Master General,
Assam Circle,
Guwahati-1.
4. The Sr.Superintendent of Post Offices,
Guwahati-1. ... Respondents.

By Advocate Shri B.S.Basumatary, Addl.C.G.S.C.

O R D E R

D.C.VERMA, JUDICIAL MEMBER,

The applicant has prayed for quashing of the transfer order dated 29.1.1998 (Annexure-D to the O.A) and order dated 11.3.1998 (Annexure-I to the O.A).

2. The applicant was posted as Manager, Postal Stores Depot (PSD) at Guwahati under the administrative control of the North East Circle, Shillong. The applicant opted for Assam Circle. The applicant was accordingly allotted the Assam Circle. From the post of Manager PSD the applicant had been transferred by Annexure-D dated 29.1.1998, to join as Supervisor, NESD, Guwahati-20. The applicant's



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case is that the impugned order of transfer dated 29.1.1998 had not been passed by the competent authority. Further ground is that the post of NESD, Guwahati carries lower scale of pay consequently the posting of the applicant to NESD amounts to reversion. The third ground is that the applicant had not complete the usual 4 years tenure as Manager PSD. The fourth ground on which the impugned order has been challenged is that the applicant belongs to Accounts cadre and the post of Supervisor, NESD is of general cadre. Consequently, it has been submitted that the applicant's cadre cannot be changed in the manner it has been done by the respondents by Annexure-D to the O.A.

3. The applicants belongs to HSG-II Grade. During the course of arguments it has been admitted that the Grade of HSG-II is Rs.5000-8000/-. The scale of pay attached to the post of Manager, PSD is also Rs.5000-8000/-. The post of Supervisor, NESD is in the scale of Rs.4500-7000/-. Thus the applicant had been transferred from the scale of Rs.5000-8000/- to the lower scale of Rs.4500-7000/-. Learned counsel for the respondents has submitted that, as per Annexures 7 and 8 filed with the written statement of the respondents, an HSG-II Grade official can be posted against LSG post but would carry the scale of HSG-II. Even if the contention of the learned counsel for the respondents be accepted the position of posting of an HSG-II Grade official to LSG post as per Annexures 7 and 8 is at the time when the BCR Scheme was being implemented and not for all time to come. Once the applicant has been posted to a post of HSG-II carrying the pay scale of Rs.5000-8000/- the applicant cannot be sent back to a post of LSG even though the same may carry the same scale. Further in the impugned transfer order dated

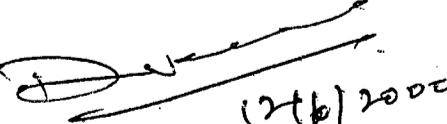
29.1.1998 there is no mention that the applicant would draw the scale of HSG-II even on the post of Supervisor, NESD. In view of this matter the order transferring the applicant from a higher scale to a lower scale post, by the impugned order, is not valid.

4. Admittedly, the impugned order dated 29.1.1998 has been passed by the Senior Superintendent of Post Offices. As per Annexure-E dated 3.2.1998 posting of BCR officials to all the norm-based HSG-II post is to be ordered by the Director, Postal Services (DPS), concerned. Thus an HSG-II official can be transferred by DPS only. The present impugned order has been passed by the Senior Superintendent of Post Offices who is not a competent authority. In the light of Annexure-E dated 3.2.1998 learned counsel for the respondents has pointed out that Annexure-E was issued in February 1998 whereas the order impugned in the case was passed in January 1998. The submission is that the DPS has been made the competent authority with effect from 3.2.1998 when the order Annexure-E was issued. The learned counsel has however, not been able to show that prior to issue of this order (Annexure-E) Senior Superintendent of Post Offices was the competent authority. There is nothing in Annexure-E to indicate that Senior Superintendent of Post Offices was earlier the competent authority or the same has been changed with effect from 3.2.1998. In absence of any such document the submission of the learned counsel for the respondents cannot be accepted. It is therefore, held that the order passed by the Senior Superintendent of Post Offices, who was not a competent authority, is not valid. It may be pointed out that by Annexure-I dated 11.3.1998 the DPS rejected the

representation of the applicant made against the transfer order. Such an order could not have been passed by the DPS if after 3.2.1998 (Annexure-E) the DPS had become the competent authority to pass the transfer. Consequently Annexure-I dated 11.3.1998 is also not valid.

5. One of the reliefs claimed by the applicant is that he be allowed to continue as Manager in the PSD till completion of his tenure of 4 years with effect from 25.8.1997. In support of the applicant's claim the learned counsel for the applicant have placed reliance on Annexure-F which is a copy of Swamy's Compilation of Posts and Telegraphs Manual Volume IV on the subject of establishment, to show that the tenure is of 4 years. Heard counsel for the parties on the point. The period of tenure provided in the rule is to be 'ordinarily' followed. It is only a guideline and is not justiciable. In a given circumstance and/or on administrative grounds or exigency of service an official can be transferred before completion of the tenure or can even be retained after he has completed the tenure period. In my view therefore, this relief of the applicant that he be allowed to continue in the post of Manager, PSD Guwahati, till completion of his tenure of 4 years, has no merit.

6. In view of the discussion made above the O.A. is partly allowed. The impugned orders Annexure-D in so far as it relates to the applicant and Annexure-I is quashed. The other reliefs claimed in the O.A. is rejected. Costs on parties.


(21/2/2000)
(D.C. VERMA)
JUDICIAL MEMBER