

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 6 of 1998 of

2.3.00
DATE OF DECISION.....

Smti. Jaya Banik.

PETITIONER(S)

Sri S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A. Deb Roy, learned Sr. C.G.S.G.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

THE HON'BLE MRS. LAKSHMINI SWAMINATHAN, MEMBER(J).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ? *yes*
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 MEMBER(J).

Lakshmi Swaminathan

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.6 of 1998.

Date of decision : This the 2nd day of March, 2000.

Hon'ble Mr. G.L.Sanglyine, Administrative Member.

Hon'ble Mrs. Lakshmi Swaminathan, Member (J).

Smti. Jaya Banik,
Postal Assistant,
Office of the Superintendent,
Postal Store Depot,
Guwahati.

...Applicant

By Advocate Mr. S. Sarma.

-versus-

1. The Union of India,
represented by the Secretary to
the Government of India,
Ministry of Communication,
New Delhi.
2. The Director General,
Posts, New Delhi.
3. The Chief Postmaster General,
Assam Circle,
Guwahati.
±
4. The Chief Postmaster General,
North Eastern Circle,
Shillong.
5. The Superintendent,
Postal Stores Depot,
Guwahati.

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R

MRS. SWAMINATHAN, MEMBER(J).

The applicant is aggrieved by the order passed by the respondents dated 29.12.1997 (Annexure-9) repatriating her from Postal Stores Depot (For short PSD), Assam Circle to N.E. Circle.

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2. The brief facts are :

The applicant was appointed as Postal Assistant in the office of the Superintendent, PSD, Guwahati by order dated 10.7.1991. While she was posted at Shillong under the N.E. Circle she had applied for her transfer under Rule 38 of the P & T Manual to Assam Circle, Guwahati. The request of the applicant for transfer to Assam Circle was not ^{cc JB} accepted as such, at that time. Later on, vide Annexure-4 order dated 9.6.1993 the applicant was intimated that her request for inter-circle transfer under Rule 38 of P & T Manual, Vol. IV has been approved by the Chief Postmaster General, Shillong, as a special case. Around this time, admittedly by order dated 1.6.1994 the Postal Stores Depot where the applicant was serving in N.E. Circle came under the administrative control of the Chief Postmaster General, Assam Circle as per the order of the Directorate, New Delhi conveyed to the competent authority at Shillong by order dated 12.5.1993.

3. Mr. S. Sarma, learned counsel for the applicant relies on the Annexure-7 order dated 1.7.1994. In this order, it is stated, inter alia, that the PSD Guwahati has been transferred from Chief Postmaster General N.E. Circle, Shillong, to Chief Postmaster General, Assam Circle, Guwahati and the particulars of posts in all cadres attached to PSD Guwahati, in both permanent and temporary status have been furnished to Assam Circle. The learned counsel has submitted that the applicant's post is at serial No. 13 of Annexure-1 to this letter. Therefore, according to the learned counsel, the applicant has been transferred to Assam Circle along with the post. The contention of the learned counsel is that in the circumstances of the case, there is no question of any deputation or transferring her back to the N.E. Circle and has challenged the validity of the

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impugned order dated 29.12.1997. Mr. Sarma also relies on the judgement and order of this Tribunal passed in O.A. No. 1 of 1996 (Sri Subash Choudhury Vs. Union of India & Ors.) on 5.6.1997 (Annexure-F).

3. We have seen the written statement filed by the respondents and heard Mr. A. Deb Roy, learned Sr. C.G.S.C. Sri Deb Roy has submitted that the facts of Choudhury's case (Supra) are different from the applicant's case. The present applicant was appointed in the N.E. Circle while Shri Choudhury had been appointed in the Assam Circle itself, and hence his absorption in Assam Circle was made later on in pursuance of Tribunal's order dated 5.6.1997. He has submitted that the applicant cannot, therefore, be considered as an employee of the Assam Circle, and at the end of her tenure of deputation she was correctly repatriated to the N.E. Circle to which she belonged. He has further submitted that after the bifurcation of the Circles on administrative grounds, some of the posts were transferred from N.E. Circle to Assam Circle but the applicant cannot be considered for the transfer to Assam Circle with the post. Sri Deb Roy, learned counsel therefore submits that there is no merit in the case and the O.A. may be dismissed.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. In the impugned order dated 29.12.1997, the respondents have stated that the applicant is being repatriated to N.E. Circle who is now on deputation to PSD, Guwahati in Assam Circle, with effect from 20.1.1998. The Tribunal by order dated 16.1.1998 had granted status quo as on that date to be maintained. Accordingly, the applicant is still working at Guwahati in the Assam Circle. From the documents placed on records and particularly Annexure-7 order dated 1.7.1994, it is seen that the respondents had

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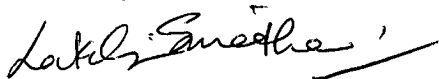
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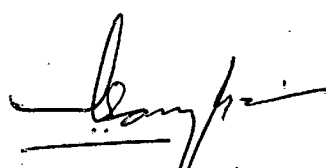
transferred the establishment of PSD from the administrative control of CPMG, N.E. Circle, to CPMG, Assam Circle, and the details of the posts in the cadres had also been given in Annexures I & II. From that date the applicant has been working as Postal Assistant at Guwahati, Assam Circle. The respondents have not placed on record any order to show that she was posted to Assam Circle on deputation. Sri Sarma, learned counsel has also pointed out that the applicant had not been paid any deputation allowance from 1994 onwards and nowhere the respondents had stated that the applicant was on deputation, till the impugned order dated 29.12.1997 has been passed, wherein the expression "of deputation" has been used.

6. Therefore, taking into account the facts and circumstances of the case, we find merit in the submissions made by the learned counsel for the applicant that at the time of transfer of certain posts, including that of Postal Assistant in Postal Stores Depot from N.E. Circle to Assam Circle, the applicant had also been transferred along with post to the Assam Circle. In any case, nothing has been placed on record to show that the Department had treated her as on deputation in the Assam Circle for the period from 1.7.1994 till 29.12.1997. Therefore, as the applicant along with the post, had been transferred to Assam Circle, the question of repatriating her to N.E. Circle would not arise.

7. In the result for the reasons given above, the O.A. succeeds and is allowed. The impugned order dated 29.12.1997 is quashed and set aside so far as the applicant, whose name appears at serial No.2, is concerned. The applicant will be entitled to the consequential benefits in accordance with rules/law.

No order as to costs.


(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)


(G.L. SANGLYNE)
(MEMBER(A))