

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR**

Original Application No. 363 of 2006

Jabalpur, this the 12th day of June, 2006

Hon'ble Shri A.K. Gaur, Judicial Member

Sone Lal Kachhi
S/o Shri Hubbi Lal Kachhi
Aged about 40, years, working as
Chokidar, Posted in the Postal Civil
Division Store, Jabalpur, M.P.

Applicant

(By Advocate- Shri Prabhakar Singh)

1. The Union of India
Through the Ministry of communication
Department, Civil Wing-New Delhi.
2. The Superintendent Engineer (C)
Postal Service (Civil) Amahamadabad
3. The Executive Engineer (C)
Postal Civil Services Div. Bhopal, M.P.
4. The Assistant Engineer (C)
Postal Civil Sub-Div. II, Sonelal
Jabalpur.

Respondents

(By Advocate- Shri Manish Chourasia)

ORDER

By A.K. Gaur, Judicial Member –

By means of filing the aforesaid Original Application the applicant seeks to challenge the validity of order dated 16.5.2006 by which he has been transferred from P.C. Store Jabalpur to the office of Executive Engineer (C), PCD Bhopal. According to the applicant, he was initially appointed as Chowkidar on 29.6.1989 in Telecom Department, Civil Division, Old CTO Compound, Indore. While working in the Telecom Department, Postal Division Indore, the applicant was transferred from Indore to Jabalpur at his own

request as indicated in Annexure-A-2 to the Original Application. The applicant is working in the PC Store, Jabalpur since 1996 till today. After lapse of more than 10 years, the applicant has been directed to be transferred from PC Store, Jabalpur to the office of EE (c), PCD Bhopal vide order dated 16.5.2006 (Annexure-A-5), and the transfer order has been issued with the approval of SE (c) Postal civil circle Ahmedabad. It is clearly mentioned in the aforesaid order that the applicant has been transferred with immediate effect in the interest of public service.

3. Main contention raised by the learned counsel for the applicant is that the applicant has preferred a representation against the aforesaid transfer order to the higher authorities, but till date the same has not been considered and the same is still pending. The other contention advanced by the learned counsel for the applicant is that basically the applicant was employee of Telecom Civil Division and at his own request he was transferred in the Telecom Department in 1995 and without his consent in 1996 he was transferred to the Postal Department and also without his consent his department has been changed by which the seniority of the applicant was affected adversely. It was also contended on behalf of the applicant that he is a class-IV employee and he is not able to afford the expenses of both the places i.e. present place and transferee place. His parents are ill and there is no male member to look after them.

4. I have heard learned counsel for the applicant at considerable length.

5. Learned counsel for the applicant has not been able to indicate any of the grounds on which the interference may be called for. It is settled principles of law that transfer is an incident of service and an employee may be transferred from one place to another. The order of transfer is liable to be interfered with by this Tribunal only on three grounds namely, if the transfer order is malafide, the transfer order is

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without jurisdiction or transfer order has been passed in violation of statutory rules. No doubt, the applicant in the Original Application has alleged that the action of the respondents is erroneous and malafide, but the person against whom malafide has been alleged has not at all been impleaded as one of the respondent and as such this ground is not sustainable in the eyes of law.

6. In a recent decision of Hon'ble Supreme Court in the case of **State of U.P. and others Vs. Gobardhan Lal**, reported in 2005 SCC (L&S) 55 the Apex Court has held as under :-

“Transfer is prerogative of the authorities concerned and court should not normally interfere therewith, except when (i) transfer order shown to be vitiated by mala fides, or (ii) violation of any statutory provision or (iii) having been passed by an authority not competent to pass such a order. Allegations of mala fides must be based on concrete material and must inspire confidence of the court. Where in the writ petition challenging order of transfer disputed questions of facts raised, held, High Court erred in making sweeping observations on the basis of its own assessment and laying down general guidelines regarding transfers.”

Further in the decision of Hon'ble Supreme Court in the case of **Major General J.K. Bansal Vs. Union of India and others**, reported in 2005 SCC (L&S) 932, it has been held that law regarding the scope of interference in a petition assailing the order of transfer is very limited. The court should be extremely slow in interfering with the order of transfer of such category person, unless an exceptionally strong case is made out. Also in the judgement of Hon'ble Bombay High Court in the case of **Naresh Gupta Vs. Union of India and another**, reported in 2006 (2) ATJ, 37, it has been held that “Transfer ordered in terms of letter of appointment and Rules in exigency of service with the approval of President- No infirmity in the transfer order.”

7. In the instant case, the learned counsel for the applicant could not place any infirmity or malafide in the transfer order. Moreover, no



material has been produced to show that the transfer order was violative of statutory rules and was malafide.

8. In view of the aforesaid discussions, I am of the considered view that no interference is called for in the aforesaid transfer order dated 16.5.2006 and the OA filed by the applicant deserves to be dismissed in limine. Accordingly, the OA is dismissed. Since the applicant has already made representations Annexure-A-6 and Annexure-A-8 before the competent authorities and the same is still said to be pending for their consideration, I hereby direct the respondents to consider and dispose of the same keeping in view the circular of Union of India dated 13.10.2005 (Annexure-A-7) and the recommendation of the department for transferring the applicant to the previous department within a period of 1 month from the date of receipt of copy of this order. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

skm

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिष्ठिति आये दिनांक—
(1) राक्षस, उच्च न्यायालय, जबलपुर
(2) आचार्य, उच्च न्यायालय, जबलपुर
(3) कानून, उच्च न्यायालय, जबलपुर
(4) कानून, उच्च न्यायालय, जबलपुर
सूचना एवं आवश्यक कार्यवाही हेतु

प्रो. प्रभाकर सिंह
M. Chaturvedi
उप-रजिस्ट्रार

Issued
13.6.06