

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR

Original Applications Nos.152 and 216 of 2005

Indore, this the 19<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

(1) Original Application No.152 of 2005

P.C. Gupta S/o Shankarlal Gupta  
Aged 51 years posted as Lower Selection Grade,  
(LSG) in Vehicle Factory  
Post office at Jabalpur

Applicant

(By Advocate – Shri S.Paul )

V E R S U S

1. Union of India  
Through Secretary,  
Deptt. of Post and Telegraph  
New Delhi.
2. Chief post Master General  
Chhattisgarh Circle, Raipur,  
Chhattisgarh.
3. Asslt. Director,  
(Staff) Chhattisgarh Circle  
Raipur Chhattisgarh.
4. Senior Suptt. of Posts.  
Jabalpur Division Jabalpur M.P.
5. Member (P)  
Postal Services Board,  
Dak Bhawan,  
New Delhi.

Respondents

(By Advocate – Shri A.P.Khare)



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(2) Original Application No.216 of 2005

1. Wren Paul,  
S/o late P.J. Paul,  
Date of birth 15.6.1952,  
Presently Sub Post Master,  
Lordganj, Jabalpur,  
R/o Qr. No.6, Type-III,  
GCF Post Office Campus,  
Jabalpur (MP)

Applicant

(By Advocate – Shri S.Paul)

**V E R S U S**

1. Union of India  
Through Secretary,  
Deptt. of Post and Telegraph  
New Delhi.
2. Member (P),  
Postal Services Board,  
Dak Bhawan,  
New Delhi.
3. Chief Post Master General  
Raipur Circle,  
Raipur (C.G.)
4. Chief Post Master General,  
M.P. Circle, Hoshangabad Road,  
Bhopal.
5. Senior Suptt. of Posts.  
Jabalpur Division Jabalpur M.P.

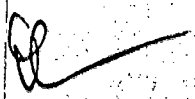
Respondents

(By Advocate – Shri P.Shankaran)

**O R D E R (Common)**

**By Madan Mohan, Judicial Member –**

The issue involved in both the OAs is common and the facts and grounds raised are identical, For the sake of convenience both the OAs are being disposed of by this common order.



2. By filing the Original Application 152 of 2005, the applicant has sought the following main reliefs :-

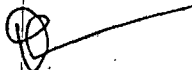
"(i) To quash the order Annexure A-1 and A-2 and direct the respondents to allow the applicant to work on his present place of posting by foregoing his promotion."

2.1 By filing the Original Application 216 of 2005, the applicant has sought the following main reliefs :-

"(ii) Set aside the promotion order dated 27.10.2004 Annexure-A-1 and the rejection order dated 25.1.2005 Annexure A/2.

(iii) Consequently, command the respondents to continue the applicant on the present post of Sub-Postmaster, Lordganj, Jabalpur as if the impugned orders aforesaid are never passed."

3. The brief facts of the case are that the applicants are presently working as Sub Postmaster under the respondents. They were promoted in Lower Selection Grade (for short 'LSG') and thereafter they were promoted as Higher Selection Grade-II (for short HSG-II) vide order dated 27.10.2004. According to the applicants the post of HSG-II is filled up 33.34% by way of promotion from LSG officials in Post offices who have put in not less than 10 years of regular service in the Lower Selection Grade and remaining 66.66% posts are also required to be filled up by way of promotion through Aptitude Test from LSG officials in Post Offices who have put in not less than 8 years of regular service. The applicants contended that the aforesaid promotion was in 33.34% quota of promotion and not through Aptitude and further contended that they were not eligible to be considered for the post of HSG-II. However, they were surprised when they perused the aforesaid promotion order whereby they have been promoted as HSG-II. Immediately both the applicants have submitted their representations dated 15.2.2005 (Annexure-A-4) with an intention to forego the said promotion for various reasons. The respondents without considering their representations and without



assigning any reason have rejected their claim vide order dated 25.1.2005 (Annexure-A-2). Thereafter, both the applicants preferred detailed representations dated 24.2.2005 (Annexure-A-5) to Member (P), Postal Services Board, New Delhi. Till now the respondents have not taken any decision on the aforesaid representations. Feeling aggrieved with their promotion and rejection of the representations, they filed the present OAs.

4. Heard the learned counsel for the parties and carefully perused the records.

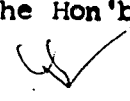
5. It is argued on behalf of the applicants that the applicants had submitted their representations with an intention to forgo the said promotion on various reasons. In Annexure-A-4, applicant in OA 216/05 has raised so many grounds as his mother-in-law who lives with him is 82 years old and is sick and bed ridden. She frequently requires medical treatment and hospitalization to which he has to attend personally and further stated that his wife is a State Government employee and posted at Jabalpur and she also suffers from spinal and neurological problems and he has to personally assist her in her medical treatment. Due to his family liabilities, he declined the promotion and he is not able to accept the transfer order. The another applicant in OA No.152/05 has raised his family problems in Annexure-A-4. The respondents have rejected the representations of both the applicants vide order dated 25.1.2005 which is a non speaking order and the respondents have not considered any contention of the applicants raised in their representations-A-4. The learned counsel for the applicants further argued that the applicants have also submitted another representations dated 24.2.2005 against the order dated 25.1.2005 to the Member (P), Postal Services Board, which is pending. The learned counsel for the applicants further argued that the representations of the applicants were rejected by the respondents at the same time when some other persons had submitted



the application to forego the aforesaid promotion was accepted. The action of the respondents is totally illegal and unjustified. Hence, the OAs deserve to be allowed.

6. In reply the learned counsel for the respondents has argued that the applicant have not availed all the remedies available to them under the service rules as redressal of their grievances. The applicants represented through an appeal to Member (P) Postal Services Board, New Delhi on 24.2.2005 and they immediately filed these OAs in the month of February, 2005. The learned counsel for the respondents also argued that under Sections 20 and 21 of the Administrative Tribunal Act, the applicants should have waited for six months from the date of representation but instead of waiting for less than one month they have filed these OAs. Therefore, the present OAs are premature and are liable to be dismissed. It is also argued by the learned counsel for the respondents that both the applicants are transferred within the state of Madhya Pradesh. The applicants are Central Government employees and they are liable to be transferred anywhere in the Country. The applicants could not show any malafide or any contravention of rules. Hence, the OAs are liable to be dismissed on merits also.

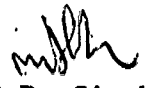
7. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the applicant of OA No. 152/2005 has been transferred <sup>order</sup> by the impugned ~~from~~ Jabalpur Division to Rewa on the post of Assistant Post Master (Saving Bank) and the applicant in OA No. 216/2005 has been transferred from Jabalpur Division to the Head Post office, Jabalpur on the post of Assistant Post Master (Accounts). The applicants could not show us any malafide & contravention of any rules and the impugned order is passed by the authority who is competent to pass such orders. The Hon'ble Supreme Court has held in various cases



that generally the Courts/Tribunals should not interfere in the cases of transfer unless the aforementioned three conditions are <sup>not</sup> fulfilled, i.e. malafide, contravention of any rule and having competence to pass the transfer order. The grounds taken by the applicants that the mother in law is ill (in OA No. 216/2005) and about illness of wife (in OA No. 152/2005 are not sufficient grounds as their treatment can be done in the transferred places also as good medical facilities are available there. No irregularity or illegality has been committed by the respondents while passing the impugned orders.

8. Considering all the facts and circumstances of the case we are of the considered opinion that both the Original Applications are liable to be dismissed as having no merits. Accordingly, the Original Applications are dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

"SA"