

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR

OA No.309/04

Jabalpur, this the 29th day of July, 2004.

CORAM

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

D.C.Thakur
S/o Late Shri purushottam Singh
Resident of Postal Colony
Colonalganj, Guna,
Dist. Guna (M.P.)
Post Master H.O., Guna.

...Applicant

(By advocate Shri M.K.Chamlikar)

Versus

1. Union of India through the Secretary
Ministry of Communication, Govt. of India
Sardar Patel Bhawan, Parliament Street
New Delhi.
2. The Chief Postal Master General
M.P.Circle, Bhopal (M.P.)
3. The Post Master General Indore
Region, Indore (M.P.)
4. The Divisional Superintendent of
Post Offices, Guna Division
Guna (M.P.)

...Respondents

(By advocate Mr.S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

The applicant seeks to quash and set aside Annexure A-2 the impugned order.

2. The brief facts of the OA are as follows:

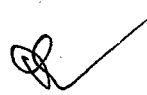
The applicant is working as Post Master in the Department of Posts having been transferred from H.O.Guna. While working at Shivpuri, the applicant applied for his transfer to Guna (M.P.) on account of his multifarious domestic problems. His request was acceded to and he was transferred to Guna H.O. at his own request and cost. The post Master General, Indore issued an order dated 26.3.04 transferring the applicant with immediate effect to Jhabua, Madhya Pradesh issued only after 2 months and 25 days of stay at Guna H.O. While the applicant's transfer from Shivpuri to Guna was at his own cost and request,




the order dated 26.3.04 transferring the applicant to Jhabua, Madhya Pradesh is discriminatory, arbitrary and capricious based on the policy of pick and choose and deserves to be quashed. It is also alleged in the application that the contents and the language of the order show that the order of transfer is punitive one and it is not made in public interest. The transfer of the applicant has been made in flagrant violation of the model code of conduct and that too without the prior approval of the Chief Election Commissioner of India and hence deserves to be quashed. The impugned transfer order A-2 was actually received on 29.3.2004 after the applicant was relieved on 26.3.04 in compliance with order by fax. The applicant made a representation to the Post Master General, Indore Region on 27.3.2004 which is pending. Hence the OA is filed.

3. Heard the learned counsel for both parties. It was argued on behalf of the applicant that due to pressing domestic problems the applicant had applied for a transfer from Shivpuri to Guna and he was transferred but soon after just before completing 3 months there, the impugned order dated 26.3.04 was issued by the Post Master General transferring the applicant to Jhabua. The transfer was a punitive one and there was no reason at all to transfer him in such an arbitrary manner and without applying the relevant rules. The applicant's representation Annexure is still pending. The action of the respondents is arbitrary, illegal and unjustified.

4. In reply, the learned counsel for the respondents argued that a few cases of fraudulent encashment of lost/stolen Kisan Vikas Patras purported to have been issued from Post Offices other than where payment was requested by the holders had come to notice at Indore during the month of February, 2004. The culprit who was arrested by the police during interrogation had informed that a gang of anti social elements was active and committing frauds/cheating in different ways with the active

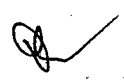


support of departmental employees. An alert was sounded and all officers/staff were requested to be vigilant to prevent commissioning of fraud. During departmental investigation, it came to notice that fraudulent encashment of K.V.Ps had already taken place at Ujjain, Ghopal and Narasinghpur in Madhya Pradesh and many other places in other parts of the country. The total amount of fraud and loss, which had come to notice, was in crores of rupees on all India basis. It has been established beyond doubt that departmental officials were also involved in these activities. Similar attempts were made at Guna H.O. where the applicant was working, who had come on transfer from Shivpuri H.O. As per the modus operandi adopted by these anti social elements, they opened joint SB accounts by giving false residential address both at Shivpuri and at Guna H.O. Finally they were arrested by the Supdt. of Police, Morena and investigations in the matter had revealed that the departmental officials of Shivpur and Guna Head Post Offices in collusion with small savings agents provided the opportunity to these elements for committing the crime. The departmental investigations (fact finding enquiry) conducted by the department at Guna H.O. provided prima facie substantial evidence that the applicant had the knowledge about the attempt being made for fraudulent encashment of cheque for Rs.1,86,000 tendered at Guna on 31.12.03 for being deposited in joint SB A/c No.31928 which was opened on 23.12.03 in the fictitious names of Shri Kapil Gupta and Smt.Indira Gupta giving the bogus residential address. As per the departmental enquiry, the applicant failed to discharge his duties in preserving the documents relating to Opening of forged B A/c. It has prima facie been proved that the applicant failed in preventing the loss of important documents, which would have been very important piece of document needed for prosecuting the culprit in criminal proceedings. Since



the applicant could have influenced subordinate staff who are suspected to be involved in facilitating the crime and also his possibility of destroying further evidence, it was though expedient to shift him immediately from the scene and therefore his transfer from Guna became absolutely essential in the larger public interest and in the interest of free and fair fact finding enquiry. The applicant has been found to be prima facie involved in the whole affair and he not only failed to take custody of important documents but allowed it to be destroyed there by helping the anti social elements. The transfer of the applicant is not a punishment and hence the action taken by the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the applicant is putting his case with the allegation that the respondents have punished him by way of this transfer. The applicant was given an opportunity of hearing. The applicant's request for transfer from Shivpuri to Guna was acceded to and the applicant joined at Guna on 1.1.2004. While the said incident is stated to have occurred one day earlier i.e. on the day the applicant was posted at Guna, the applicant cannot be blamed for the incident. The applicant was transferred as some fraudulent activities regarding Kisan Vikas Patra were going on wherein some culprits were arrested and after the fact finding enquiry it was found that departmental officials were also involved and the applicant being the departmental head was also found prima facie responsible for the incident by the fact finding enquiry. The respondents had considered the applicant's transfer from Shivpuri to Guna on account of his multifarious domestic problems, but in the aforesaid circumstances the department thought it necessary to relieve him immediately from Guna H.O. in public interest. The respondents have not acted with any malafide intention or violated any rules.



6. The arguments of the learned counsel for the applicant that the applicant had joined at Guna H.O. on 1.1.04 while the said incident happened one day earlier i.e. 31st December, 2003 and hence the applicant cannot be said to be responsible for the ^{the said incident} offence, seem to be ^{not} untenable because the departmental investigation and the fact finding enquiry committee had found the applicant prima facie responsible for the alleged incidents. Hence the respondents have immediately shifted the applicant from Guna H.O. This transfer is made on the administrative ground by the respondents and the Tribunal cannot interfere with such transfer made on administrative ground. We find that the transfer of the applicant has been made by the respondents without any malafide intention and without contravening the rules on the subject. The OA is liable to be dismissed.

Hence the OA is dismissed.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पूरांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अंगोषित:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल
- (4) जंशपाल, डेपूअ., जबलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु
प्रतिप रजिस्ट्रार

MR. Chamlikin
SA Dharmalikin

3-8-04

Issued
on 7-8-04
BS