

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 684 of 2003

Jabalpur, this the 28th day of October, 2003.

Hon'ble Mr. M.P. Singh, Vice Chairman(Administrative)
Hon'ble Mr. G. Shanthappa, Judicial Member

M.M. Mitra
S/o Late Sheri P.N. Mitra
Aged about 56 years,
R/o 154, press, Colony
Anand Nagar,
Bhopal.

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India
through its Secretary
Ministry of Communication
Department of Posts
Dak Bhawan, New Delhi
2. The Director General(Posts)
Life Insurance Directorate
New Delhi.
3. The Chief Post Master General
Madhya Pradesh Circle
Hoshangabad Road
Bhopal
4. The Chief Post Master General
Chhattisgarh Circle
Raipur.

RESPONDENTS

(By Advocate- Shri Om Namdeo)

O R D E R

By G. Shanthappa, Judicial Member -

The above application is filed challenging
the order dated 22.8.2003(Annexure-A-1) and orders
dated 25.9.1993, Annexures A-2, A-3 & A-4.

2. The case of the applicant is that he is working
as Postal Assistant, in the Higher Selection Grade of
Rs.5000-8000 in a Group-C post. The respondents have
issued the order of transfer vide order dated 22.8.2003
(Annexure-A-1) by which the applicant was transferred
to newly created Chhattisgarh Circle consequent to
bifurcation of Postal Life Insurance work. The
Chhattisgarh circle came into existence in the year 2001

and now on the ground of bifurcation of the cadre to a newly created circle the applicant is picked up and chosen for his transfer to the new circle.

3. Earlier the applicant had approached this Tribunal in O.A.No.575/2003. The said OA was disposed of with some directions vide order dated 27.8.2003 (Annexure-A-5). The respondents have complied with the directions of this Tribunal and passed the order dated 25.9.2003 (Annexure-A-4) which has been challenged in this OA.

4. The specific contention of the applicant is that the applicant does not come within the purview of the orders issued by the respondent no.2 as per Annexure-A-2. The applicant is a Group-C employee and his transfer could not be effected in view of the bifurcation of the PLI work.

5. The further case of the applicant is that the post of Assistant Divisional Manager (PLI) - the vacant post was transferred to the newly created circle and no officer occupying the said post in M.P.Circle could be transferred, hence the respondents have violated the rights of the applicant under Articles 14 & 16 of the Constitution, while rejecting the request of the applicant.

6. Per contra the respondents have filed their return denying the averments in the application. According to the respondents the M.P.Circle was bifurcated into two circles i.e. the M.P.Circle and Chhattisgarh circle with effect from 12.1.2001. The position of the supervisory posts after bifurcation was as under :-

(i) Circle Office, Bhopal	- 14 posts
(ii) Regional Office, Indore	- 4 posts
(iii) Chhattisgarh circle, Raipur	- 4 posts
Total	= 22 posts

Along with the reply, the respondents have produced the order dated 7.8.2003 (Annexure-R-1). The position of the said circles are mentioned. The extract of the said order is as under-

"the Chief Postmaster General, M.P.Circle, Bhopal is pleased to accord approval for diversion of

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following number of posts as detailed in Annexure "A" from Circle office Bhopal to Chhattisgarh Circle Raipur w.e.f. the dates mentioned against each -

Asstt. Director (PLI)	01
Postal Asstt.	10
DO PLI	02
Section Supervisor	01

The proportionate Posts of Sanctioned establishment of PLI Section as per number of PLI policies which are to be transferred to C.G. Circle are as under-

PAs	- 16
DO PLI	- 03
S.S.	- 01

Out of above 16 posts of PAs, 06 posts of PAs have already been transferred to C.G. Circle vide memo No. Est A/1-7 dated 10/4/01. Similarly one post of DO PLI O/o PMG Raipur has also been transferred to C.G. Circle."

Along with Annexure-R-1 they have produced Annexure-A to the said order which speaks at serial no.6 two posts were to be filled up by the designation "DO PLI with HQ at Bilaspur, Jabalpur. There is an order of diversion with effect from 18.8.2003. vide memo no. Estt 15-2/2001/66 dated 7.8.03, the same is figured in Annexure-R-2 which is applicable to only at serial no.18 which is vacant. When the two posts are vacant, the said order of diversion is applicable to serial no.18 only. The applicant is at serial no.16. The respondents have produced Annexures-R-3 and R-4. The respondents have also ~~argued that~~ ^{argued that} ~~produced~~ the documents at Annexures-R-3 and R-4 which are not applicable to the facts of the applicant's case as the said documents are applicable to the service of Group-B officers. According to the reply of the respondents, it is their specific case that before bifurcation there were 22 posts of Section Supervisors out of which 18 posts remained in the M.P. Circle as on 12.1.2001, one post transferred to Chhattisgarh circle on 7.8.2003. According to this statement, the Annexure-R-2 speaks that two posts were vacant at serial nos.17 & 18. The post at serial no.18 which was vacant was diverted to Chhattisgarh with effect from 18.8.2003 vide memo dated 7.8.2003. When this is the factual position and the statement of the respondents which clearly show that the

impugned order of transfer is not in accordance with the order dated 7.8.2003 issued by the respondents.

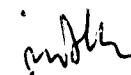
7. As per order dated 10.6.2003 issued by the issued by the Chief General Manager,PLI which relates to transfer of PLI work to the newly created circles viz.Chattisgarh, Jharkhand and Uttaranchal alongwith the proportionate posts of PAs and DOs(PLI), the vacant posts should be preferred for transfer. It is contended by the learned counsel for the applicant that while issuing the impugned order at Annexure-A-1 there is no strict compliance of the order dated 10.6.2003 (Annexure-A-9), issued by the Chief General Manager, PLI, New Delhi.

8. After hearing the learned counsel for either side, we find that the short question involved in this case is whether the impugned order is sustainable in terms of the instructions issued by the respondent no.2. According to the reply of the respondents,one post was diverted to the Chhattisgarh Circle.The applicant was not the junior most official. As per Annexure-R-2 there were two vacant posts at serial nos.17 & 18. Serial no.18 was vacant, which was to be diverted to the Chhattisgarh Circle. Hence the transfer of the applicant to Chhattisgarh circle is against their own instructions issued by the respondents. Annexures-R-3 & R-4 are not applicable in the case of the applicant, he being the Group-C officer. Though the impugned order of transfer is an administrative order and normally the Tribunal does not interfere in such matters, but in the instant case we find that the respondents have violated their own instructions and guidelines issued in the matter and in such a matter the Tribunal can interfere and direct the authorities to pass an appropriate order by following the instructions, guidelines or orders of the higher authorities.

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9. In the result, this application is allowed. The impugned orders are not sustainable and the same are quashed. The respondents are, however, at liberty to pass a fresh order by following the instructions or guidelines or orders of the higher authorities considering the observations made in this order. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

प्रांगण रां ओ/व्हा..... अमारुली.....
सरिनिवास वास्तविक.....
(1) गविन वास्तविक वास्तविक.....
(2) गविन वास्तविक वास्तविक.....
(3) गविन वास्तविक वास्तविक.....
(4) गविन वास्तविक वास्तविक.....

सरिनिवास वास्तविक.....

S. Paul, Adm.

Om Mandir, Adm.

Executive
7/11/03


T. K. Rao
7/11/03