

Open Court.

COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

JABALPUR.

....

Original Application No. 245 of 1998

this the 19th day of February '2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Lalita Prasad Yadav, S/o late Sri Kishorilal Yadav, aged about 42 years, R/o Near Balaji Mandir, C/o Sri Hemraj Yadav, Itarsi (M.P.).

Applicant.

By Advocate : None.

Versus.

1. Union of India through its Secretary, Ministry of Communication, Government of India, New Delhi.
2. Director, Postal Services, Headquarters Office of the Chief Post Master General, M.P. Circle, Bhopal.
3. The Supdt., Railway Mail Service, Madhya Pradesh Division, Bhopal (M.P.)

Respondents.

By Advocate : Sri P. Shankaran.

O R D E R (RAL)

By this O.A., the applicant has challenged the order dated 10.12.1997 by which he has been transferred from Itarsi to Gwalior.

2. It is submitted by the applicant that he is working on the post of Mailman, which is a Group 'D' post and as per Section 37 of the Transfer Policy, Group 'D' should not be transferred unless there are compelling circumstances. It is submitted by the applicant that in the seniority list for the year 1997-98 (Annexure A-3), his name figured at sl. no. 75 i.e. there are about 21 employees below him and

74 employees above him, which clearly shows that the applicant has been transferred out by singling him and by adopting the method of 'pick and choose' as none of the juniors have been transferred. He has, thus, submitted that the transfer is bad in law and is liable to be quashed.

3. The O.A. is opposed by the respondents who have submitted that the applicant was performing his duties in MP 290 UT set/1 running between Itarsi to Bhusawal on 6.9.97, the Circle Vigilance Squad had paid a surprise visit to the Section at Khirkiyan R.S. Point and found that certain unauthorised persons were travelling in the mail van and while the section was required to deal with the closed bags only, four parcels were found lying under Seat nos. 73 to 75 while the efforts to trace the ill-fated bag from which these parcels were taken-out. The applicant traced it without loss of time below seat nos. 77 and 78 which were just opposite the seats where the parcels were lying. The applicant in his deposition had accepted that they had got the forwarding bags checked by the Mail Agent of the Section. Therefore, his action was judged to be suspicious. Even otherwise, it is stated by the respondents that the applicant has been found figuring in 18 more cases where the postal articles were damaged in the section in which the applicant was working, but sufficient evidence to initiate the disciplinary action against the applicant was not available, <sup>however B</sup> ~~but~~ there are strong reasons to suspect the activities of the applicant. It is, thus, felt necessary to shift the applicant from his present place of posting under the provisions of Rule 213 of P&T Manual Vol. V. Even otherwise, they have submitted that there were seven officials working over and above the sanctioned strength at Itarsi and in order to bring the man power within the <sup>sanctioned</sup> ~~refused~~ strength, seven persons were ought to be transferred to Gwalior where there

is short posting of seven hands and since the conduct of the official was under the shadow of doubt, it was considered necessary to post the applicant out due to administrative reasons. They have, thus, submitted that it is wrong to suggest that the applicant has been posted-out by adopting the method of 'Pick and Choose' or due to any extraneous consideration. Since the transfer has been done in the interest of administration, no interference is called-for. The respondents' counsel also submitted that the Hon'ble Supreme Court has repeatedly held that where a person has been transferred on administrative grounds, the court should not interfere as a routine matter, unless it is found to be malafide or is contrary to the rules and instructions. They have further submitted that the transfer order was held in abeyance till the end of March '98 and he was required to be relieved on 1.4.98 by his immediate superior, but for the reasons best known <sup>to</sup> ~~for~~ him, he had not been relieved for which action may be taken against the official concerned. However, in view of the stay granted by the Tribunal, status quo has been maintained.

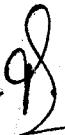
4. The applicant in the Rejoinder has submitted that if it is a case of surplus then the junior most person ought to have been transferred out and the applicant could not have been picked-up for transfer.

5. Since none has appeared for the applicant, I have heard the respondents' counsel by attracting Rule 15(1) of CAT (Procedure) Rules 1987 and perused the pleadings as well.

6. The Hon'ble Supreme Court has repeatedly held that court and Tribunal should not interfere in the matter of transfer in a routine manner, unless it is found that the transfer is done due to any malafide reasons or is contrary to rules and instructions. It is also held by

the Hon'ble Supreme Court that when the transfers are made due to administrative reasons, the court should not interfere. In the instant case, it is seen that the applicant <sup>is allowed</sup> had ~~held~~ unauthorised persons to travel in the Mail van where he was posted and also certain parcels were lying without their bags, therefore, his action were found to be suspicious in nature and since it was not in the interest of administration to keep such a person at the same place, the respondents had decided to shift him to some other place as per Rule 223 of P&T Manual Vol. V. The Hon'ble Supreme Court has also held that how the work is to be taken from the individual and where he should be posted are the matters which should be left to the authorities concerned as they <sup>are the</sup> alone best judges in such matters. In the instant case, since the applicant has been transferred out due to his suspicious activities in the interest of administration, I do not think that any interference is called-for in the matter. It is correct that in the normal course whenever the persons are declared to be surplus, the junior most person should be transferred out, but this was <sup>not</sup> a normal transfer, as far as the applicant is concerned, because he had to be transferred out due to compelling reasons <sup>to maintain good administration</sup>, therefore, it cannot be said to be a case of transfer by adopting the method of 'Pick and Choose', nor can be said to be arbitrary in any manner.

7. In view of the above discussions, the O.A. is without any merits. Accordingly, the same is dismissed with no order as to costs.

  
(M.R.D. CHHIBBER)  
MEMBER (J)

GIRISH/-

पूर्णांश्चन सं. ओ/न्या..... जबलपुर, हि.....  
परिवर्तनी विवर:-

(1) सरकारी विद्यालय, जबलपुर, जबलपुर  
(2) जबलपुर विद्यालय, जबलपुर काउंसल  
(3) पर्यायी विद्यालय, जबलपुर काउंसल  
(4) योग्यता, काउंसल

सूचना एवं आवश्यक दार्यजड़ी हैं

AK Gupta, 18010  
P. Shankar, 19010

24/2/03  
उपर्युक्त

Issued  
On 25/2/03