

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 258 of 1998

Jabalpur, this the 6th day of February, 2003

Hon'ble Mr. R.K. Upadhyaya-Member (Administrative)

Gajrat S/o Late Shri Khushilal,
aged about 51 years, resident of Uttar Bangalia,
ITARSI (MP) - APPLICANT

(By Advocate - None)

VERSUS

1. Union of India, Through its Secretary,
Ministry of Communication, Government of
India, NEW DELHI.

2. The Director, Postal Service, Headquarters Office
of the Chief Post Master General, MP Circle,
BHOPAL.

3. The Superintendent, Railway Mail Service,
Madhya Pradesh Division, BHOPAL (MP) -RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

ORDER

This application has been filed requesting to quash the transfer order dated 10.12.1997 (Annexure-A-1) by which the applicant has been transferred from Itarsi to Gwalior.

2. It is stated by the applicant that he was appointed in 1968. He was working as Head Mailman, which is a Group-D post and as per transfer policy (Annexure-A-2) transfer should be ordered except when advisable in the interest of the public service. Postmen, Village Postmen and Class-IV servants should not, except for very special reasons be transferred from one district to another.

2.1 The applicant's case is that he has been arbitrarily transferred even though he was not required to be transferred from one district to another being a Group-D employee. In this connection, the applicant has filed a list at Annexure-A-3 in which his name is shown at serial no. 16. Therefore, there are at least 15 persons senior to him and more than 50 persons junior to him. Neither the senior nor

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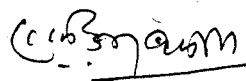
the juniors have been transferred. Therefore, his transfer is on account of exercise of a policy of pick and choose and the order of transfer deserves to be quashed.

3. The learned counsel of the respondents invited attention to the reply filed in which it has been stated that "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". In addition to this, "the applicant has been found figuring in eight more cases where the postal articles were damaged in the sections in which the applicant was working but sufficient evidence to initiate disciplinary action against the applicant was not available but there were strong reasons to suspect the activities of the applicant". Therefore, it was in the interest of the administration to shift the applicant. Besides, there were shortage of man-power at Gwalior whereas there were excess persons available at Itarsi. This arrangement by the impugned order of transfer does not call for any interference. The respondents have further stated that the conduct of the applicant at Itarsi was not found to be beyond doubt, therefore, he has been shifted to Gwalior in the administrative interest in accordance with the instructions contained in Rule 213 of the P&T Manual, Vol. V which was an administrative requirement and not under the pick and choose policy as alleged by the applicant. It has further been stated that since there is only one office in the district, it was not possible to rotate the applicant in the district itself. Hence, there was no alternative but to transfer the applicant outside the district.

Amr Singh

4. After hearing the learned counsel of respondents and after perusal of the records, it is noticed that the impugned order of transfer has been issued in accordance with the existing instructions on the point. The administration is the best judge to employ the man-power. There is no dispute that excess persons were posted at Itarsi, whereas there was shortage in Gwalior. If the applicant was not desirable in the eyes of the administration at Itarsi, his shifting to Gwalior cannot be questioned. The Hon'ble Supreme Court in the case of National Hydro-electric Power Corporation Ltd. Vs. Shri Bhagwan, 2002 SCC (L&S) 21 have held that transfer is an incidence of service and none has right to continue at one place. Their Lordships have further observed that the Courts or Tribunals cannot substitute their own decision in the matter of transfer for that of the management as against such orders passed in the interest of administrative exigency of service concerned. The applicant cannot state that his activities should always be subjected to disciplinary proceedings. That can be a separate course of action. Every transfer involves some inconvenience to the employee. In this case the respondents have brought on record certain reasons for transferring the applicant who is neither junior most nor senior most. These reasons can very well form the basis for his transfer. The allegation of pick and choose policy is baseless and has to be rejected. In this view of the matter the order of transfer is upheld. The interim order dated 6.4.1998 for maintaining status quo stands vacated.

5. In view of the decision in the preceding paragraph, this application is dismissed without any order as to costs.


(R.K. Upadhyaya)
Member (Admnv.)

Issued
on 10-2-03
BS

पृष्ठान्त से ओ/अप्रा.....जबलपुर, दि.....
पतिलिपि आचोषित:-

- (1) सवित्र, जय 1/2/2003 मार एसोसिएशन, जबलपुर
- (2) ~~कार्यवाही/विजली/कु~~.....के काउंसल
- (3) प्रस्तावित कार्यवाही/कु.....के काउंसल
- (4) कार्यवाही, विजली, जबलपुर न्यायपीठ
संख्या एवं आवश्यक कार्यवाही हेतु

RK Gupta, Adu
S.A. Sharma - Adu

Signature
उप सचिव 10/2/03