

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 203/2005 with MA No.200/2005.

Jaipur, this the 3rd day of August, 2005.

CORAM : Hon'ble Mr. Kuldip Singh, Vice Chairman.

Prahlad Khati
S/o Shri Bux,
Aged about 48 years,
R/o House No.31-32, Pratap Nagar,
Jaipur Road, Malpura District Tonk (Raj.)

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India
Secretary to the Government of India,
Department of Posts, Ministry of Communication and
Information Technology, Dak Bhawan,
Sansad Marg, New Delhi 110 001.
2. Post Master General,
Rajasthan Southern Region,
Ajmer 305 001.
3. Superintendent of Post Offices,
Tonk Postal Division,
Tonk.

... Respondents.

By Advocate : Shri N. C. Goyal.

: O R D E R (ORAL) :

The applicant Shri Prahlad Khati has filed this OA impugning the order dated 15.4.2005 (Annexure A/1) vide which he has been transferred from Malpura Post Office to Bundi Head Post Office in interest of service. The case of the applicant is that in the year 2003 while he was working at Tonk Head Post office, he made a request for



transfer to Malpura, so he was transferred to Malpura at his own cost without TA & DA where he joined in the month of May 2003. It is submitted that in case of transfer of the applicant is on his own request the tenure of post is four years but the respondents without considering the same had passed the impugned order Annexure A/1, whereas other officials who had joined Malpura prior to the applicant are still continuing. It is stated that no official has been posted against the post to be vacated by the applicant on transfer. Thus, it is stated that the action of the respondents is arbitrary, illegal and unjustified and it is against the provisions of Article 14, 16 and 21 of the Constitution of India. It is further submitted that the transfer of the applicant is neither in public interest, nor in the Administrative exigencies but it has been ordered due to malafide attitude of Respondent No.3 and the same is against the guidelines issued by the department.

2. Respondents who are contesting the OA submitted that despite the fact that the applicant was transferred to Malpura on his own request with a clear understanding that he would work with full devotion to the duty and provide better services to the customers, but the applicant failed to maintain the same and invited many complaints from public for which he was warned with severe warnings, in order to, change his attitude towards public. A series of complaints had been made against

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him. Thus, the applicant had spoiled the working atmosphere at Malpura. It is stated that the applicant was debarred for monetary transactions for 10 years for his misconduct and misbehaviour. But due to leave arrangements and shortage of staff, the applicant was ordered to work at the counter of Malpura sub post office. It is submitted that the Sub Post Master, Malpura, vide his letter dated 21.2.2004 requested for transfer of the applicant from his office to another big office. A copy of the same is annexed with the reply as Annexure R/5. It is further submitted that an inquiry was conducted by the Inspector Posts, Malpura, and in the inquiry report of the complaints against the applicant, the Inspector Posts, Malpura also has recommended the transfer of the applicant from Malpura to another big office. Therefore, keeping in view, the complaints and reports thereon, the matter was referred to Post Master General, Rajasthan, for transfer of the applicant. After obtaining his approval the applicant was transferred from Malpura to Bundi Head Office in the public interest.

It is stated that as per Annexure R/8, instructions had been issued to transfer such officers who do not care customers at the counter. As far as stay is concerned it is submitted that the applicant has already been relieved and the Court should not interfere in the matter of transfer of the applicant for stay at this stage.



3. I have heard learned counsel for both the parties and gone through the material placed on record.

4. Learned Counsel for the applicant submitted that the Courts could not interfere in the orders of transfers passed by the employers but if the order is vitiated and is passed against the statutory guidelines then the Court can certainly interfere and in support of his contention Learned Counsel for the applicant submitted that it is an admitted case of the parties that the applicant was transferred on his own request to Malpura where the applicant could enjoy the tenure of four years and the applicant had not completed his tenure of four years and despite that he has been transferred. Thus, the order passed by the respondents is in violation of the statutory guidelines issued by the department itself.

4.1 Learned Counsel for the applicant also submitted that it is a case of malafide transfer because the proposal of transfer was initiated by Shri R. S. Udwat, the acting SPO, Tonk and vide Annexure R/13 Shri Udwat while working as Assistant Director Postal Services had conveyed to SPO, Tonk about the approval of the competent authority for transfer of the applicant. Thus, it is a letter written by Shri Udwat to himself in the capacity of SPO as Shri Udwat was holding the charge of Assistant Director Post Services as well as SPO, Tonk.



5. In my view the contentions raised by the applicant have no merits at all because if a person is working in a dual capacity, it is his duty to convey the orders passed by the competent authority to the concerned officer then there is no harm, even if, he is holding the charge of both the posts. Had it been a case that it was Shri Udwat initiating the proposal of transfer of applicant as SPO and also passing the order of transfer then one can understand the things. Only then probably the applicant could have made out a case for malafides on the part of Shri Udwat but in this case the transfer order has not been approved by Shri Udwat rather the transfer order has been approved by the competent authority higher than Shri Udwat. Other contention of Learned Counsel for the applicant is that since he was holding a tenure post for a period of 4 years as he was transferred to Malpura at his own request so he could not be transferred before 4 years. Learned Counsel for the respondents had referred to Annexure R/10 which is on subject of Rotational Transfer Policy guidelines for the year 2000-2001. It provides that there will be no bar to transferring officials in all cadres including gazetted cadres, from one office to another in the same station where no TA expenditure is involved. Learned Counsel for the respondents then also referred to another Rotational transfer policy guidelines for the year 1998-99 dated 23.2.1998 (Annexure R/11) wherein it is also provided that the transfer of employees in the interest of service

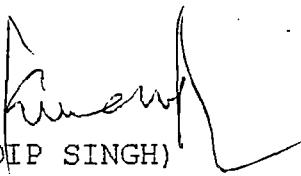


may be ordered with the approval of the competent authority even though they do not fall within the purview of the above guidelines. Meaning thereby that even if, it is a case of a person holding a tenure post for a period of 4 years, the interest of service requires that he has to be transferred, then the only embargo before ordering transfer of such employee is about obtaining the approval from the competent authority. In this regard I have mentioned that approval of competent authority has to be obtained on the facts which necessitated the transfer of the incumbent who is holding a post for a tenure period of 4 years and I have no doubt that in this case also the competent authority has been duly informed as to why the transfer of the applicant from Malpura to Bundi Head Office is in the interest of service and as there are various complaints of public customers like undesirable behaviour with small savings Agents and applicant having been found smoking at counter while on duty, so the administration in their wisdom thought it appropriate to transfer the applicant from Malpura to Bundi Head Office. Thus, it cannot be said that the transfer of the applicant is in violation of transfer guidelines issued by the department. The same also cannot be said to be as a result of any malafide exercise of power on the part of any of the respondents for passing the impugned order of transfer.



6. Thus, I find no reasons to interfere in the impugned order of transfer. Hence, the OA is dismissed with no order as to costs.

7. In view of the order passed in OA, no order is required to be passed in MA No.200/2005 also stands disposed of.



(KULDIP SINGH)
VICE CHAIRMAN

P.C./