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NOTES OF THE REGISTRY

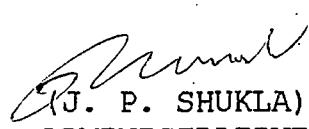
ORDERS OF THE TRIBUNAL

OA No. 137/2006.

17.05.2007.

Mr. C. B. Sharma counsel for the applicant.  
Mr. Hemant Sharma proxy counsel for  
Mr. Paresh Choudhary counsel for the respondents.

On the request of Learned Counsel for the applicant, the case is adjourned to 22.5.2007.

  
(J. P. SHUKLA)  
ADMINISTRATIVE MEMBER

  
(KULDIP SINGH)  
VICE CHAIRMAN

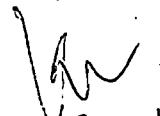
P.C./

22.5.2007

Mr. C. B. Sharma, Counsel for applicant  
Mr. Paresh Choudhary, Counsel for respondents

Heard. The OA is disposed of by a  
separate order, for the reasons recorded  
therein.

  
(Tarsem Lal)  
M(A)

  
(Kuldip Singh)  
V.C.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

Jaipur, the 22<sup>nd</sup> day of May, 2007

ORIGINAL APPLICATION NO. 137/2006

CORAM:

**HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR. TARSEM LAL, MEMBER (ADMN.)**

Bharu Lal Sen son of Shri Piru Ram aged about 51years, resident of C/o Ram Sevak Sharma, Sahyog Nagar, Behind Shiya Talkies, Bharatpur and presently working as Postal Assistant, Bharatpur, Head Post Office, Bharatpur Postal Division, Bharatpur.

By Advocate: Mr. C.B. Sharma

.....Applicant

Versus

1. Union of India through Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, Sansad Marg, New Delhi.
2. Principal Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices, Bharatpur Postal Division, Bharatpur.

By Advocate: Mr. Paresh Choudhary

.....Respondents

**ORDER (ORAL)**

Applicant has filed this OA seeking for the following reliefs:-

- (I) That respondents be directed to consider request of the applicant for transfer from Bharatpur Postal

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Division to Jaipur City Postal Division under Rule 38 or on mutual basis and give effect the transfer with all consequential benefits.

- (ii) That the respondents be further directed to ignore the case because the same is in private capacity and applicant ready to attend the same at own his expenditure till finalization from Jaipur at Bharatpur.
- (iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded.

2. Facts as alleged by the applicant, in brief, is that applicant had been initially appointed as Extra-Departmental staff in Jaipur City Postal Division. Thereafter, he was promoted as Group 'D' in the year 1988 and further he was promoted as Postal Assistant at Bharatpur Postal Division.

3. The applicant in the year 2001 made a request for transferring him from Bharatpur Postal Division to Jaipur Postal Division ~~at~~ his own cost and placing him at bottom seniority as per provisions of Rule 38 of P & T Manual Volume IV. He has also made the same request vide his letter dated 11.08.2005 (Annexure A/4) but so far his request has not been considered by the respondents.



4. The respondents are contesting the case of the applicant that a criminal case under Section 120 B, 379, 406, 420, 467, 468 and 471 of the IPC is pending against the applicant and, therefore, his request for transfer from Bharatpur Postal Division to Jaipur Postal Division cannot be considered.

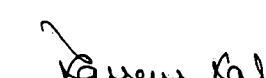
5. Learned counsel for the applicant submitted that as per provisions of Rule 38 of the P & T Manual IV, the applicant has the right to be transferred at Jaipur Division. He further submitted that as per Rule 38 of the P & T Manual, transfers of officials when desired for their own convenience should not be discouraged if they can be made without injury to the rights of others and in this case by transferring the applicant to Jaipur Postal Division, there will no injury to the rights of others. Learned counsel also contended that the applicant shall attend the court at Bharatpur at his own cost and, therefore, his request for transfer from Bharatpur Postal Division to Jaipur Postal Division should be considered.

6. In the facts & circumstances of the case, we are of the opinion that a pendency of a criminal case against the applicant cannot be a ground for ignoring the his transfer request.

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Accordingly, the respondents are directed either to pass the order transferring the applicant to the next available vacancy from Bharatpur Postal Division to Jaipur Postal Division or to spell out the reasons as to why his transfer cannot be made to Jaipur Postal Division especially when provisions of Rule 38 of the P & T Manual Vol. IV provides that transfer of officials when desired for their own convenience should not be discouraged, if they can be made without injury to the rights of others. This order shall be passed within a period of two months from the date of receipt of a copy of this order. If the applicant has any grievance on the order passed by the respondents, he shall be at liberty to approach this Tribunal again by filing the fresh application.

7. With these observations, the OA is disposed of with no order as to costs.

  
**(TARSEM LAL)**  
**MEMBER (A)**

  
**(KULDIP SINGH)**  
**VICE CHAIRMAN**

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