

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR  
ORDER SHEET**

APPLICATION NO.: \_\_\_\_\_

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

**05.02.2009**

**OA No. 352/2007 with MAs 271/2008 & 336/2008**

Mr. C.B. Sharma, Counsel for applicant.  
Mr. Kumar Gaurav, Proxy counsel for  
Mr. T.P. Sharma, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

*as well as MAs*  
  
**(B.L. KHATRI)**  
**MEMBER (A)**

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 05<sup>th</sup> day of February, 2009

**ORIGINAL APPLICATION NO. 352/2007**  
**With**  
**Misc. Application nos. 271/2008 & 336/2008**

**CORAM:**

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER.

Bachchu Lal Meena son of Late Shri Birbal Meena, aged about 56 years, resident of near Head Post Office, Sawaimadhapur and presently working as Postal Assistant (BCR), Sawaimadhapur Head Post Office, Sawaimadhapur.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

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

.....RESPONDENTS

(By Advocate: Mr. Kumar Gaurav proxy counsel to  
Mr. T.P. Sharma)

**ORDER (ORAL)**

**PER HON'BLE MR. B.L. KHATRI**

This OA has been filed by the applicant u/s 19 of the AT Act thereby challenging order dated 21.09.2007 (Annexure A/1) whereby he has been transferred from Sawaimadhapur to Jodhpur under Rule 37 of the P&T Manual Vol. IV. Through this OA, the applicant has prayed for the following reliefs:-

- (i) That entire record relating to the case may kindly be called for from the respondents and after perusing the same transfer order of the applicant from Sawaimadhapur to Jodhpur vide Memo dated 21.09.2007 with letter dated 11.06.2007 be quashed and set aside with all consequential benefits.

- (ii) That the respondents may be further directed to allow the applicant to work at Sawaimadhapur Head Post Office.
- (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. Brief facts of the case are that two charge sheets for departmental proceedings have been issued to the applicant vide Memo dated 20.09.2006 (Annexure A/4) and Memo dated 14.06.2007 (Annexure A/6). Besides, one criminal case is also pending at Sawaimadhapur.

3. Learned counsel for the applicant relied upon the case of B.M. Parmar & Others vs. Union of India & Others, 1996(1) ATJ 200, wherein it was held that Rule 37 of the P&T Manual Vol. IV is no longer in operation. I find it has held so under similar facts of that case. However, no action has so far been taken to delete Rule 37 of the P&T Manual Vol. IV which reads as under:-

"37. All officials of the Department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfer should not, however, 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. All transfer must be subject to the conditions laid down in Fundamental Rules 15 and 22.

37-A Transfers should generally be made in April of each year so that the education of school going children of the staff is not dislocated. In emergent cases of cases of promotion this restriction will naturally not operate."

4. Learned counsel for the applicant had invited specific attention to the provisions of Rule 66 of Postal Manual Vol. III, which reads as follows:-

"As far as possible, after the irregularities on the part of an official have been detected and disciplinary proceedings against him are contemplated he should not be transferred out of the jurisdiction of the disciplinary authority who is to conduct the departmental proceedings even though it may some-times be found desirable to transfer the official to an outstation within the jurisdiction of the same disciplinary authority. If an official in the

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selection grade in a different division is also considered to be responsible for lapses etc. which would justify departmental action, the question of his transfer of the division where the fraud or loss has occurred and where all the records etc. would be available for inspection, should be examined and where necessary, the circle office addressed for necessary action."

5. It was vehemently argued by the learned counsel for the applicant that as per Rule 66 of the Postal Manual Vol. III, the applicant should not be transferred during the pendency of the disciplinary proceedings. For this proposition, he relied upon the following cases laws:-

- (i) A.K. Gandhi vs. Union of India & Others  
2004 (1) ATJ 134
- (ii) Shri Jasbir Singh vs. Union of India & Others  
2003 (1) ATJ 267
- (iii) OA No. 217/2005, Pratibha Hada vs. Union of India & Others  
Decided by CAT Jaipur Bench on 31.08.2005.

It was submitted in all these orders that delinquent official should not be transferred during the pendency of the disciplinary proceedings.

6. Notice of this OA was given to the respondents who have opposed the submission made by the applicant in this OA. Learned counsel for the respondents relied upon the statement through reply, Inter-alia, submitted that the transfer of the applicant under Rule 37 of the Postal Manual Vol. IV was ordered in the interest of service as the applicant was found involved for making payment of KVPs and MISC account on the basis of forged authorization. Two charge sheets were issued to the applicant and one criminal case was pending at Sawaimadhopur. It was also submitted by the learned counsel for the respondents that applicant was drawing pay scale of Higher Selection Grade II under Biennial Cadre Review Scheme. The Director Postal Services is the disciplinary authority for major penalty in his case. Therefore, he has been transferred to Jodhpur Division where the Director Postal Service Western Region, Jodhpur will be his disciplinary authority of the same rank. His transfer had been ordered by the Chief Postmaster General, Rajasthan Circle, Jaipur who is competent to transfer under Rule 37. Being the applicant involved in serious of fraud cases, which caused loss to the Government to the tune of Rs.4,20,970/- for safe guard of witnesses and fair inquiry, his transfer was found necessary in the interest of service.

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7. I have heard the learned counsel for the parties and perused the material placed on record. The applicant had been transferred from Sawaimadhapur to Jodhpur in the interest of service under Rule 37 of the P&T Manual Vol. IV as per Annexure A/1. However, the respondents have taken the plea in the reply that two charge sheets had been issued to him and a departmental proceedings are going against him and applicant may influence the witnesses. Rule 66 of the P & T Manual Vol. III specifically restrains the respondents from transferring the applicant out of the jurisdiction of the disciplinary authority who is to conduct the departmental proceedings. In all the three judgements cited at Page 3 of this order, it was held that delinquent official should not be transferred during the pendency of the disciplinary proceedings. Having regard to the facts of the case & legal position on this issue, the impugned order dated 21.09.2007 (Annexure A/1) is quashed and set aside.

8. With these observations, the OA is disposed of with no order as to costs. In view of the order passed in the OA, no order is required to be passed in MA Nos. 271/2008 & 336/2008, the same are also disposed of accordingly.

  
(B.L. KHATRI)  
MEMBER (A)

AHQ