

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 26th day of December, 2008

CORAM:

HON'BLE MR. M.L.CHAUHAN, JUDICIAL MEMBER

ORIGINAL APPLICATION No.366/2008

Sita Ram Meena
s/o Sh. Bajrang Lal Meena,
r/o Village and Post Jinapur,
Tehsil and District Sawai Madhopur and
presently working as Sub-Post Master,
Sawai Madhopur Bazar, Sub Post Office,
Sawai Madhopur.

..Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. The Union of India through
its Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bhawan,
New Delhi.
2. Principal Chief Postmaster General,
Rajasthan Circle,
Jaipur.
3. Superintendent of Post Offices,
Sawai Madhopur Postal Division,
Sawai Madhopur.
4. Shri K.C.Bairwa,
Sub Post Master,
Chakeri Sub-Post Office, ordered to be
Posted as Sub-Post Master,
Sawaimadhopur Bazar Sub Post Office,
Sawaimadhopur

.. Respondents

(By Advocate: Shri Kumar Gaurav, proxy counsel to Shri Tej Prakash sharma)

ORIGINAL APPLICATION No.380/2008

Ladli Prasad Gautam
 s/o Shri Chaturbhuj
 r/o Village and Post Jinapur,
 Tehsil and District Sawaimadhopur and
 Presently working as Treasurer,
 Sawaimadhopur Head Post Office,
 Sawaimadhopur.

..Applicant

(By Advocate: Shri C.B.Sharma)

Versus

5. The Union of India through
 its Secretary to the Govt. of India,
 Department of Posts,
 Ministry of Communication and
 Information Technology,
 Dak Bhawan,
 New Delhi.
6. Principal Chief Postmaster General,
 Rajasthan Circle,
 Jaipur.
7. Superintendent of Post Offices,
 Sawai Madhopur Postal Division,
 Sawai Madhopur.
8. Shri K.C.Bairwa,
 Sub Post Master, Chakeri
 Sub-Post Office, ordered to be
 Posted as Sub-Post Master,
 Sawaimadhopur Bazar Sub Post Office,
 Sawaimadhopur

.. Respondents

(By Advocate: Shri Kumar Gaurav, proxy counsel to Shri Tej Prakash sharma)

O R D E R (ORAL)

By this common order, I propose to dispose of these two OAs as the impugned orders issued by the respondents is outcome of acceptance of representation of Shri K.C.Bairwa, respondent No.4 in these OAs whereby his transfer to SPM, Chakeri vide OM dated 4.7.2008 was modified via order dated 15.9.2008 (Ann.A1 in OA No.380/08) and he was transferred and posted at SPM, Sawaimadhopur Bazar vice Shri S.R.Meena, applicant in OA No.366/08. It may be stated that the order dated 15.9.2008 as issued by Superintendent of Post Offices, Sawaimadhopur Division, Sawaimadhopur was issued pursuant to the Chief Post Master General, Rajasthan Circle, Jaipur letter dated 8.9.2008 (Ann.A1 in OA No.366/08). In both these OAs the applicants have prayed for quashing and setting aside these orders.

2. Briefly stated, facts of the case are that the applicant in OA No.366/08 who was working as Postal Assistant at Sawaimadhopur Head Office was transferred to Sawaimadhopur Bazar Post Office vide Superintendent of Post Office, Sawaimadhopur order dated 29.5.2008 (Ann.A2). Pursuant to the said transfer order, the applicant Shri Sita Ram Meena was relieved on 9.6.2008 and he joined as Sub Postmaster, Sawaimadhopur Bazar Post Office. As already stated above, vide impugned order, transfer of the applicant Shri Sita Ram Meena

was modified and he was transferred back to his original place of posting i.e. Sawaimadhopur Head Office. In place of Sita Ram Meena, respondent No.4 Shri K.C.Bairwa was transferred and posted as Postal Assistant, Sawaimadhopur Bazar Post Office, which resulted into transfer of Shri Ladli Prasad Gautam, applicant in OA No.380/08. As can be seen from pleadings in these OAs, the grievance of the applicant Shri Sita Ram Meena is that once he has joined the new placing of posting on 9.6.2008, it was not permissible for the respondents to re-transfer him within such a short span and the impugned order has been passed only to accommodate, respondent No.4, as such, action of the respondents is against rules/instructions and also against the provisions of Article 14, 16 and 21 of the Constitution of India.

The grievance of the applicant Shri Ladli Prasad Gautam in OA No.380/08 is that he was selected to the post of Treasurer for two years vide Ann.A5 and took over charge in the month of June, 2008. The post of Treasurer having additional benefit of allowances and he was deprived of the other benefits of HRA by posting him at Chakeri, as such, action of the respondents is not at all justified.

3. Notice of these applications were given to the respondents. Respondents have filed reply. The facts as stated above, have not been disputed. The case set

up by the respondents in the reply is that respondent No.4 Shri K.C.Bairwa has made a representation dated 5.8.2008 to Director, Postal Service, Headquarter, Jaipur against his transfer to Chakeri Post Office before completion of tenure. It is further stated that while considering his representation, it was noticed that Shri K.C.Bairwa, respondent No.4 was transferred from Gangapur Head Office to Sawaimadhopur Head Office in the month of June, 2006 and he was again transferred to Chakeri Post Office before completion of his tenure. Thus, according to the respondents, the proposal of transfer of Shri Bairwa to Chakeri was not fair as he should have been adjusted locally i.e. SPM, Sawaimadhopur Bazar where Shri Ladli Prasad Gautam and Shri Gauri Shankar Parreek who have longest stay at Sawaimadhopur has to be transferred out of Sawaimadhopur but they have been adjusted at Sawaimadhopur from divisional office. Thus, keeping in view these facts, request of Shri K.C.Bairwa was considered by the competent authority and the competent authority ordered to transfer Shri K.C.Bairwa as SPM, Sawaimadhopur Bazar and Shri Ladli Prasad Gautam as SPM, Chakeri vide Chief Postmaster General Memo dated 8.9.2008 ~~was~~ and accordingly order was modified and SPO, Sawaimadhopur issued a transfer order of applicant vide letter dated 15.9.2008. It is stated that the applicant Shri Ladli Prasad Gautam is continuously working at Sawaimadhopur Head Office from

7.6.2001 and order issued on 4.6.2008 do not bestow on him any right to continue to hold the post of Treasurer and it is clearly mentioned in the Memo dated 4.6.2008 that "in the interest of service he is liable to be displaced from the said Post without any notice or showing any reason thereof". Thus, according to the respondents no interference in the matter is called for.

4. It may be stated here that when the matter (OA No.366/08) was listed on 16.9.2008, this Tribunal granted ex-parte interim stay in favour of the applicant Shri Sita Ram Meena and respondents were directed to maintain status-quo qua the applicant as on that day and the applicant was permitted to work as Sawaimadhopur Bazar Post Office which stay was continued from time to time. The respondents in the reply affidavit have stated that respondent No.4 has joined and applicant Shri Sita Ram Meena has been relieved from Sawaimadhopur Bazar Post Office on 15.9.2008 after handing over charge of Sawaimadhopur post office to respondent No.4 who has also joined on 15.9.2008. It is further stated that inspite of joining at Sawaimadhopur Head Office, the applicant submitted a medical certificated for grant of medical leave and also filed the aforesaid OA against his transfer order at Sawaimadhopur Head Office. It is further stated that the applicant has not brought this

fact to the notice of this Tribunal on 16.9.2008 when this Tribunal has granted ex-parte interim stay.

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

6. From the facts as stated above, it is clear that impugned orders have been passed on the basis of representation made by respondent No.4 against his transfer to Chakeri Post Office. The respondents have placed on record, copy of the representation so made by respondent No.4. As can be seen from para 3 and 4 of this representation dated 5.8.2008, respondent No.4 has made two fold submissions/grievance - i) that Shri Ladli Prasad Gautam and Shri Gauri Shankar Pareek are working at Sawaimadhopur for the last 7 years, as such their retention at Sawaimadhopur is against the order issued by the Chief Postmaster General, Rajathan Jaipur dated 17.1.2008 and ii) that applicant Shri Sita Ram Meena was transferred from Sawaimadhopur Bazar Post Office to Sawaimadhopur Head Office in the previous year and he has again been transferred to the Sawaimadhopur Bazar in this year. It was under these circumstances, the applicant has prayed for cancellation of his transfer order. As already stated above, the competent authority considered the matter and it was found that neither Shri Sita Ram Meena nor Shri K.C.Bairwa, respondent No.4 have completed their

tenure, as such, the competent authority modified the transfer order by repatriating Shri Sita Ram Meena to his original posting i.e. Sawai Madhopur Head Office whereas respondent No.4 was posted at Sawaimadhopur Bazar Post Office which resulted in transfer of Shri Ladli Prasad Gautam who admittedly was serving in the same station i.e. Sawaimadhopur Bazar for last 7 years. Thus, I am of the view that in such circumstances, no interference in the matter is called for especially when the Apex Court has repeatedly held that who should be transferred where is the matter to be considered by the appropriate authority and the Tribunal/Court should not interfere in such matters as if they are appellate authority. It is further held that in case a person has any grievance, in that eventuality, it is for such person to make representation before the appropriate authority, who may consider his grievance. Thus, in the light of the law laid down by the Apex Court, as already stated above, no interference in the matter is called for.

7. The learned counsel for the applicants argued that the matter has not been considered by the appropriate authority in right perspective, inasmuch as, the respondent No.4 was transferred from Sawaimadhopur Head Office to Chakeri Post Office on the basis of complaint made by one Shri M.A.Khan and in such eventuality whether respondent No.4 has

completed the tenure or not is irrelevant and this aspect has not been taken into consideration by the competent authority while accepting representation of respondent No.4. The learned counsel for the applicants further argued that applicant Shri Ladli Prasad Gautam was posted as Treasurer at Sawaimadhopur Head Office vide memo dated 4.6.2008 on deputation basis for a period of two years keeping in view his suitability for that post being a person of high integrity, as such, it was not permissible for the respondents to curtail his period of deputation and transfer him vide impugned order. It is further argued that respondent No.4 before his transfer to Chakeri Post Office was posted as Sawaimadhopur Head Office. In case transfer of respondent No.4 before completion of tenure was not proper, in that eventuality, he should have been posted at Sawaimadhopur Head Office instead of posting him at Sawaimadhopur Bazar Post Office, thus, dislodging applicant Sita Ram Meena. This aspect has not been taken into consideration by the appropriate authority while accepting representation of respondent No.4.

8. I have given due consideration to the submissions made by the learned counsel for the applicants. The contention raised by the applicants does not ~~u~~ ^u ~~found~~ ^u part of pleadings in the OA, as such, no positive finding can be given qua this aspect. Suffice it to ~~u~~

say that in case the applicants make representation to the Chief Postmaster General, Rajasthan Circle, Jaipur regarding their aforesaid grievances, I see no reason why the competent authority should not give due consideration to the grievances to be raised by the applicants. Accordingly, the applicants are permitted to raise all these contentions before the appropriate authority by making such representations within a period of 15 days from the date of receipt of a copy of this order. In case such representations are made by the applicants, the Chief Postmaster General, Rajasthan Circle shall consider the same and pass appropriate order within a period of six weeks from the date of receipt of the representations and dismissal of these OAs will not come in the way of the competent authority to grant relief to the applicant(s), if any.

9. With these observations, both these OAs stand disposed of with no order as to costs. Interim relief granted on 16.9.2008 and extended from time to time in OA No.366/08 shall stand vacated.


(M.L.CHAUHAN)

Judl.Member

R/