

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORDERS OF THE BENCH**

**Date of Order: 05.01.2012**

MA No. 375/2011 (OA No. 588/2011)

Mr. Keshav Agarwal, counsel for applicant.  
Mr. Mukesh Agarwal, counsel for respondents.

Learned counsel for the respondents submits that he has filed reply to the OA during the course of the day in the Registry, and he does not want to file reply to the MA.

Learned counsel for the applicant submits that looking to the urgency of the matter; the matter may be listed on 10.01.2012 for final disposal at this stage. Accordingly, put up the matter on 10.01.2012.

*K. S. Rathore*  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

10-01-2012 (10-01-2012)  
OA No. 588/2011 with MA No. 375/2011

Mr. Keshav Agarwal, Counsel for applicant.  
Mr. Mukesh Agarwal, Counsel for respondent

Heard.

The O.A. and M.A. are disposed of by a separate order on the separate-sheets for the reasons recorded therein.

*K. S. Rathore*  
[Justice K. S. Rathore]  
Member (J)

Reply filed

rejoinder not filed

Rejoinder filed on

13-1-12

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

**Jaipur, this the 10<sup>th</sup> day of January, 2012**

**Original Application No.588/2011**

**CORAM:**

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**

**Bidha Ram Dagur  
s/o Shri Mittan Lal,  
r/o 23/101, Madina Colony,  
Dholpur,  
SPM, Weir Town,  
(Bharatpur) last working**

**.. Applicant**

**(By Advocate: Shri Keshav Agarwal)**

**Versus**

- 1. Union of India  
Through the Secretary and  
Director General,  
Ministry of Communication and  
Department of Posts,  
Dak Bhawan,  
Sansad Marg,  
New Delhi.**
- 2. Chief Post Master General,  
Circle, Jaipur**
- 3. Superintendent of Post Offices,  
Dholpur Division,  
Dholpur**
- 4. Superintendent of Post Offices,  
Sriganganagar Division,  
Sriganganagar (Raj.)**

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

The present OA is directed against the transfer orders dated 17.11.2011 (Ann.A/1) and 25.11.2011 (Ann.A/2) challenging on the ground that the respondents are frequently transferring the applicant. Earlier the applicant was transferred from the office of Superintendent of Post Offices, D.O. Dholpur to Mania Sub Post Office vide order dated 11.6.2010 at his own request. Further vide order dated 20.5.2011 the applicant was transferred from Mania to Weir. Against this transfer, the applicant represented before the respondent on 21.5.2011. Since his representation was not considered, therefore, the order of transfer was assailed by the applicant by way of filing OA No.349/2011. Since the applicant has been relieved and he has joined his duty at the transferred place, the aforesaid OA was dismissed vide order dated 9.11.2011 as having become infructuous with liberty file a substantive OA if any prejudicial order is passed by the respondents on his representation.

2. The impugned orders are further challenged on the ground that the order has been passed in violation of the policy laid down, according to which, SC/ST employees recruited in Group C and D posts are to be given posting near to their native



places and there should not be discrimination against SC/ST employees. The applicant also raised mala-fide allegation against the respondents but none of the respondents is impleaded by name as party respondent. Thus mere assertion of mala-fide does not survive.

3. The applicant also submitted that the order dated 9.11.2011 passed by this Tribunal has not been complied with in letter and spirit and without deciding representation of the applicant, the impugned order has been passed as the representation came to be decided on 3.1.2012 which is evident that the respondents have not cared to the earlier order passed by the Tribunal dated 9.11.2011 in OA No.349/2010. To this effect, the respondents have place original file and by perusal of the original record it appears that prior to passing the order dated 9.11.2011 by this Tribunal, the matter was considered at the highest level and it is decided that the applicant should be transferred to a distant place in the public interest and pursuant to the direction, the order has been passed.

4. After considering the transfer order it is evident that the transfer order passed by the respondents is in public interest and strictly in accordance with Rule 37 of P&T Manual Vol.IV. As per the aforesaid Rule, 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 class of officials. Transfers should not, however be ordered except when advisable in the interests of public service. Postmen, Village Postmen and Class IV servants should not, except for special reasons, be transferred from the district to another. All transfers must be subject to the conditions laid down in Fundamental Rules 15 and 22.

5. Further, I have considered the policy laid down as well as the reply submitted on behalf of the official respondents. It is stated that by the respondents that after transfer the applicant misbehaved and used unparliamentary language with Superintendent of Post Offices and also threatened to face dire consequences. Time and again for his misconduct chargesheets were issued to the applicant and penalty of withholding of one increment without cumulative effect has also been awarded and a recovery of Rs. 119 from his salary of November, 2011 was imposed upon the applicant vide order dated 22.11.2011. Similarly, proceedings under Rule 16 of CCS (CCA) Rules 1965 were initiated by serving charge sheet dated 3.8.2011 for misappropriation of Government money of Rs. 600. Besides this, other enquiries were initiated against conduct of the applicant.

6. In view of all facts and circumstances and in view of the fact that FIR was lodged on 19.10.2011 through his relative Shri



Niraj Kumar under Section 323, 341, 451 IPC and 3(5) SC, ST Act on the basis of false incident dated 14.10.2011, as such according to respondents, transfer was made absolutely on administrative exigency and as per the ratio laid down by the Apex Court ,such transfer should not be interfered .

7. I have thoroughly considered the rival submissions of the respective parties and also considered the relevant original record and conduct of the applicant. In my considered view, the impugned transfer orders do not require any interference at this stage. Consequently, the OA being bereft of merit deserves to be dismissed and the same is hereby dismissed with no order as to costs.

However, the applicant is always at liberty to represent before the respondents for his transfer near to his native place.

In view of disposal of the OA, no order is required to be passé d in MA No.375/2011, which is accordingly disposed of.

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/