

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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**ORDERS OF THE BENCH**

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**Date of Order: 09.12.2013**

OA No. 564/2013 with MA No. 369/2013

Mr. P.N. Jatti, counsel for applicant.

Mr. Mukesh Agarwal, counsel for respondents.

Heard learned counsel for the parties.

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

  
(ARVIND ROHEE)  
JUDICIAL MEMBER

  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 564/2013  
WITH  
MISC. APPLICATION NO. 369/2013

**DATE OF ORDER:** 09<sup>th</sup> December, 2013

**CORAM**

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. A. J. ROHEE, JUDICIAL MEMBER**

Mohammad Nazish S/o Mohammad Asgher, by caste Muslim, aged about 26 years, R/o Nosheymiya Ka Pul, Ameer Ganj Bajar, Tonk, presently working as P.A. SBCO Bundi, now under Transfer to Banswara HO.

...Applicant

Mr. P.N. Jatti, counsel for applicant.

**VERSUS**

1. Union of India through the Secretary to the Government of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Post Master General, Southern Region, Ajmer.
4. Superintendent Post Offices Kota Dn., Kota.
5. Senior Superintendent Post Offices Udaipur Dn., Udaipur.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

**ORDER**

**(PER MR. ANIL KUMAR, ADMINISTRATIVE MEMBER)**

The present Original Application has been filed by the applicant being aggrieved by his transfer order dated 14.05.2013 (Annexure A/1) vide which he has been transferred from the cadre of PA SBCO Bundi HO to the cadre of PA SBCO Banswara HO.

2. Brief facts of the case, as stated by the learned counsel for the applicant, are that the transfer order has been assailed by

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the applicant on the ground that the transfer orders of the employees are to be issued in the month of March / April whereas the applicant has been transferred in the month of May.

3. Learned counsel for the applicant further submitted that the transfer of the applicant has been made in violation of the transfer policy of the respondents dated 08.02.2002 (Annexure A/6). According to this transfer policy, the applicant could have been transferred to one of the following places: -

“(B). SOUTHERN REGION, AJMER

Group No. B.	(i) Tonk H.O.
	(ii) Bundi H.O.
	(iii) Jhalawar HO
	(iv) Kota HO
	(v) N.G. Mandi Kota HO”

According to the learned counsel for the applicant, all other six employees in the transfer order dated 14.05.2013 have been transferred as per this policy. He further submitted that there are vacancies in Tonk HO and Kota HO. The applicant is ready to join either at Tonk HO or at Kota HO from where the applicant will be able to take care of his family, which is fully dependent on the applicant.

4. Learned counsel for the applicant has also assailed the transfer order on the ground of the family circumstances of the applicant. He argued that the applicant being the elder son and only earning member in the family has also to look after his 66 years old father, who remains sick most of the time. The education of his younger sisters and younger brother is dependent on the applicant. His younger sister is studying at the

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Institute of Medical Technology and Nursing Education and the applicant has deposited her fee of Rs. 38,000/-. The second younger sister is also student of BA Part-II and her fee of Rs. 2,000/- has also been deposited by him. His younger brother is also student of GNM-I and his fee has also been deposited by him.

5. Therefore, learned counsel for the applicant prayed that in view of the above circumstances, the transfer order of the applicant may be modified as per the policy of the department.

6. Learned counsel for the respondents admitted that as per the transfer policy, the applicant should have been posted in the Group of HO namely Tonk HO, Jhalawar HO, Kota HO and N.G. Mandi Kota HO. The applicant on the completion of the tenure had also requested for his transfer to Tonk HO at his own costs.

7. However, keeping in view of the acute shortage of SBCO staff at Banswara HO (Dungarpur Division) where against sanctioned strength of three PAs only one PA SBCO has been posted, who is also absent from duty with effect from 05.03.2013 continuously and, therefore, at present no PA SBCO is working at Banswara HO. Hence, keeping in view huge pendency in SBCO Branch and CBS is also implemented at the Banswara HO, the competent authority has ordered to post the applicant as PA SBCO Banswara HO in the interest of service. Shri R.D. Mahawar has joined in place of the applicant at Bundi

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HO on 03.06.2013, therefore, there is no post of PA SBCO vacant at Bundi HO.

8. Learned counsel for the respondents stated that the applicant had submitted a representation dated 21.05.2013 to the CPMG Rajasthan Circle, Jaipur, which was considered by the CPMG, Jaipur on 24.07.2013 (Annexure R/2) with the direction that the applicant will be brought back to his cluster as soon as Banswara HO score becomes 100 under MIS and DPT. Till then he will continue at Banswara HO.

9. Learned counsel for the respondents further argued that as per provisions contained in Rule 37 of Postal Manual Vol.-IV, any official of the department is liable to be transferred to any part of India. Thus, it is clear that the applicant has been transferred in public interest looking to the acute shortage of staff at Banswara. There is no irregularity or illegality in the transfer of the applicant, therefore, the Original Application has no merit and it should be dismissed with costs.

10. Heard learned counsel for the parties and perused the documents available on record.

11. It has been admitted by the respondents that according to the transfer policy normally the applicant should have been posted in the cluster of the stations, which have been mentioned in the transfer policy but in the interest of public service and looking to the fact that there is acute shortage of staff at SBCO

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Banswara, he has been posted at Banswara. He also drew our attention to letter issued from the office of the Chief Postmaster General, Rajasthan Circle, Jaipur dated 24.07.2013 (Annexure R/2) vide which it has been communicated that the applicant would be brought back to his cluster as soon as Banswara H.O. score becomes 100 under MIS and DPT. This shows that the respondent-department is sympathetic to the request of the applicant.

12. It is settled law that transfer order of an employee cannot be quashed and set aside by the Courts / Tribunals unless it is shown that the order of transfer is an outcome of a mala fide exercise of powers and violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so. Moreover, transfer of an employee is not only an incident inherent in terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service.

13. Further, the Hon'ble Apex Court in the case of **State of U.P. and Others vs. Gobardhan Lal** reported in 2005 SCC (L&S) 55 has also held that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer / servant to any place in public

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interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely.

14. In the present case, none of these ingredients in favour of the applicant exist. Therefore, in view of the ratio decided by the Hon'ble Apex Court, the applicant cannot be given any relief from the Tribunal in the present Original Application.

15. Learned counsel for the applicant has challenged the transfer order on the ground of personal inconvenience, which the applicant would face on account of his transfer. However, we are of the view that on the ground of personal inconvenience of the applicant, the respondents cannot be directed to modify the transfer order as the transfer of an employee is an incident inherent in terms of appointment and also implicit as an essential condition of service.

16. We are of the view that the transfer order issued by the respondents is in public interest. Moreover, the applicant has been assured that as soon as Banswara H.O. score becomes 100 under MIS and DPT, he will be brought back to his cluster.

17. Therefore, in our opinion, at this stage no interference is called for by this Tribunal. Accordingly, the Original Application being devoid of merit is dismissed with no order as to costs. Consequently, the interim order passed by this Tribunal dated 06.08.2013 stands vacated forthwith.

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18. In view of the order passed in the Original Application, no further order is required to be passed in the Misc. Application No. 369/2013 for vacation of interim order dated 06.08.2013, as such, the Misc. Application stands disposed of.

  
(A. J. ROHEE)  
JUDICIAL MEMBER

  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

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