

**Central Administrative Tribunal
Principal Bench**

OA No.4209/2014

New Delhi, this the 18th day of April, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mrs. P. Gopinath, Member (A)**

Madhuri Dabral,
Aged 51 years,
D/o Shri B.P. Dabral,
A Non-Functional Selection Grade Officer of the
Indian Postal Service,
Director (Training, Welfare and Posts),
Department of Posts,
Ministry of Communications and Information Technology,
Dak Bhawan, Sansad Marg,
New Delhi-110001.
(Currently under posting to Guwahati)

Now residing at :

B-87, Sector Gamma-I,
Greater NOIDA,
Uttar Prasad

...Applicant

(By Advocate : Shri S.K. Das)

Versus

Union of India through
Secretary,
Department of Posts,
Dak Bhawan, Parliament Street,
New Delhi-110001.

...Respondent

(By Advocate : Dr. Chaudhary Shamsuddin Khan)

ORDER (ORAL)**Mr. Justice Permod Kohli, Chairman :-**

The grievance of the applicant in the present OA is regarding non payment of transfer TA on her transfer from Chandigarh to Delhi vide order dated 25.06.2012 (Annexure-A/9). The applicant is a 1989 batch officer of the Indian Postal Service, a Group 'A' service under the Union Government. While she was working as Director, Postal Services, Indore Region, in the non-functional Selection Grade, she was deputed as Director of Printing & HOD, Ministry of Urban Development during the period 2008 to 2010. Then she was repatriated to her parent department i.e., Postal Directorate as Director (Work Studies) in May 2010. The Work Study Division of the Directorate was abolished in November, 2010 and the applicant was kept on compulsory waiting upto May 2011. Vide a subsequent order dated 03.06.2011, the applicant was transferred to Chandigarh as Director, Postal Services, Punjab Circle and she joined the said assignment on 20.06.2011. The applicant made several representations against her frequent transfers alleging violation of the transfer policy as also the arbitrariness in her transfers from time to time. Some of the representations are placed

on record as Annexures-A/3, A/4 and A/7. Her representation dated 05.09.2011 was rejected vide letter dated 19.04.2012 (Annexure-A/6), stating therein that her transfers have been effected after due consideration, larger public interest and exigencies of Service. It was reiterated that her transfers/postings were in consonance with the transfer policy guidelines issued vide OM dated 04.04.2011. The allegations of bias, prejudice and discriminatory treatment are also denied. Not being satisfied with the aforesaid rejection order, the applicant submitted a memorial dated 17.05.2012 (Annexure-A/8) to the Hon'ble Minister of Communication and Information Technology. This memorial seems to have been acceded to. The applicant was, accordingly, ordered to be transferred from Chandigarh to New Delhi vide order dated 25.06.2012 (Annexure-A/9). Vide this order, the applicant along with another officer was transferred whereas ad hoc promotions were also made. The relevant extract of the order reads as under :-

“No.208/2011-SPG
Government of India
Ministry of Communications & IT
Department of Posts
(Personnel Division)

Dak Bhawan, Sansad Marg,
New Delhi-110001.

Dated 25th June, 2012**ORDER**

Sub: Transfer and posting of Junior Administrative Grade (JAG) officers and promotion and posting of STS officers of 2003 & 2004 Batch on adhoc basis to JAG of Indian Postal Service, Group 'A'

PART-I

Orders of the Competent Authority are hereby conveyed for transfer/posting of the following Junior Administrative Grade (JAG) officers of the Indian Postal Service, Group 'A' with immediate effect and until further orders in the administrative interest:

S.No.	Name of the officers (S/Shri)	Presently posted	Posting on transfer	Remarks
(i)	Ms. Madhuri Dabral Sharma (PoS-1989)	DPS, Punjab Region, Punjab Circle	Director (Sports & Welfare), Postal Directorate	On her own request without TA/TP.
(ii)	Ms. Sukhvinder Kaur (IPoS-1991)	Director, PTC, Saharnapur, Uttar Pradesh	DPC (Punjab Region), Punjab Circle	Vice Ms. Madhuri Dabral Sharma transferred.

2. In the remarks column of the aforesaid order, it is indicated that the transfer of the applicant was "On her own request without TA/TP." It is this part of the order against which the applicant has serious grievance. In appeal dated 19.11.2012, the applicant had claimed a transfer amount of Rs.91,288/- for shifting household effects from Chandigarh to Delhi on her transfer vide order dated 25.06.2012.

3. Counter affidavit has been filed by the respondents in response to the present OA. It is pleaded that the transfer policy guidelines dated 04.04.2011 rest on the principles of tenure, performance, service history, records and suitability, sensitive and non-sensitive postings, interest of service/administrative interest, request and interest of officers etc. It is further mentioned that while ordering transfers, administrative and functional needs of a particular post as also the service records, past performance, character and antecedents of the officer are also taken into consideration to assess his/her suitability for the post. Apart from these general guidelines for effecting transfers of the officers in the Department in para 4.22, the respondents have stated as under :-

“4.22 That the contents of para 4.22 of OA are false, incorrect and misleading this Hon’ble Court and hence denied in totality. It is submitted that the applicant vide her representation 05.09.2011 (Annexure: A-3 of the O.A.), 21.09.2011 (Annexure: A-4 Colly of the O.A.), 19.04.2012 and 23.04.2012 (AnnexureL A7 Colly) requested for posting back to Delhi.”

4. From the perusal of the aforesaid averments in the counter affidavit, we find that the only plea raised by the respondents for denying the TA/TP to the applicant is her

own request for transfer and in support of their contention, respondents have relied upon Annexure-A/3, Annexure-A/4 and Annexure-A/7 annexed with the OA. These annexures are the representations of the applicant against her transfer.

5. The applicant has filed the rejoinder to the counter affidavit primarily reiterating the averments made in the OA. In response to para 4.22 of the counter affidavit, the averments thereunder have been denied as false.

6. We have heard the learned counsel for the parties.

7. The payment of transfer allowance is governed and regulated by SR-114 which reads as follows :-

“S.R. 114 Travelling allowance may not be drawn under this section by a Government servant on transfer from one station to another unless he is transferred for the public convenience and is entitled to pay during the period occupied by the journey. A transfer at his own request should not be treated as a transfer for the public convenience unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs.”

8. We have carefully examined Annexure-A/3, Annexure-A/4 and Annexure-A/7 relied upon by the respondents in para 4.22 of their counter affidavit.

9. Annexure-A/3 is a representation. The subject of the representation reads as under :-

“Subject – Representation against my unjustified and arbitrary Transfer orders in contravention of transfer Policy guidelines.”

10. It is a long representation from pages 57 to 71. The applicant has projected her grievances against her frequent transfers from time to time and long period of posting on non cadre posts. The details of her postings from time to time have been indicated at pages 8 and 9 of the OA. In Annexure-A/3, apart from projecting her grievance against her arbitrary transfers alleging contravention of the transfer policy, the applicant has also mentioned about her family circumstances in para 17 thereto wherein she has stated that her father, who was admitted in ICU at Metro Hospital, NOIDA, is undergoing treatment and her presence is required to look after him at this crucial stage. Based on this averment, it is argued by Shri Khan, learned counsel for respondents that her transfer was at her own request. Insofar as the Annexures A/4 and A/7 are concerned, we have found that the applicant had all along been protesting

against her transfers being in contravention of the transfer policy. Even Annexure-A/3 wherein the family circumstances are also indicated, the main thrust of the grievance of the applicant is on the contravention of the transfer policy and arbitrary exercise of power to transfer.

11. We have already noticed the order dated 25.06.2012 whereby the applicant was transferred from Chandigarh to Delhi. The order had been issued in the administrative interest though in the remarks column against the transfer of applicant "on her own request" has been mentioned. Once the transfer of the applicant is in administrative interest, the question of transfer on her own request does not arise. This seems to be done unnecessarily denying the applicant her right to get the TA on transfer. It is further strengthened by two documents i.e. the rejection of the representation vide order dated 19.04.2012 and dated 15.10.2014. Para 2 & 3 of the first rejection order dated 19.04.2012 are reproduced hereinbelow :-

"2. Your representation has been considered. Transfer/Posting order dated 03.06.2011 have been effected after due consideration, larger public interest and exigencies of Service. The above transfer/posting orders are in consonance with the Transfer Policy guidelines issued vide O.M. No.4-9/2011-SPG dated 04.04.2011. The orders are not biased, prejudiced or discriminatory towards any officer in particular.

3. You would appreciate that the Department had accommodated you in Postal Directorate against a GCS post of Director (Welfare & Sports) consequent upon your premature repatriation from Directorate of Printing, Ministry of Urban Development when other vacant posts in JAG available in Field Offices.”

12. The second rejection order is dated 15.10.2014. The relevant extract of the said order is reproduced below :-

Sl.No.	Issues indicated by the officer	Comments of the Department
(iii)	Last time, her appeal against irregular transfer was accepted by the Minister and she was retransferred to Directorate. Therefore, she is hopeful for a positive outcome on her appeals and has every right to await outcome of decision. In case of her joining, the very purpose of submission of such representation will stand negated.	The officer was repatriated to the Department of Posts prematurely in April, 2010 from Ministry of Urban Development where she was working as Director (Printing) on deputation basis within 2 years, though her deputation tenure was for longer period. On her repatriation to the Department, the officer was posted as Director (Work Study) in Postal Directorate. However, subsequent to the order of Ministry of Finance (Department of Expenditure) to wind up all the Work Study Units across the Government, this Department also wound up the Work Study Unit functioning in the Department. Consequently, officers working in the Work Study Unit were transferred to different vacant posts within the Department, including Ms. Madhuri Dabral, who was transferred to Punjab Circle as DPS (Region), having headquarters at Chandigarh, in June, 2011.

13. Learned counsel for the applicant has also argued that applicant's representation addressed to the Hon'ble Minister was not placed before the Hon'ble Minister and was rejected at the Secretary level. In support of her contention, reference is made to the aforesaid rejection order dated 15.10.2014, wherein the following is mentioned:-

“This issues with the approval of the Secretary.”

14. Be that as it may, the applicant had projected her grievance against her transfers from time to time. Even the transfer of the applicant vide order dated 25.06.2017 was in administrative interest. Her case is not covered by the second part of the SR-114.

15. Notwithstanding the stipulation in the transfer order that the transfer is at her own request, we find from the record that the transfer of the applicant was on the basis of her Memorial wherein she fundamentally projected her grievance against the arbitrariness. Non payment of TA/TP to the applicant is totally unjustified. This OA is accordingly allowed, with a direction to the respondents to pay the admissible TA/TP to the applicant on account of

her transfer from Chandigarh to Delhi vide order dated 25.06.2012 within a period of two months from the date of receipt of a certified copy of this order. No costs.

(Mrs. P. Gopinath)
Member (A)

(Justice Permod Kohli)
Chairman

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