

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01193/2018

Dated Thursday the 6th day of September, Two Thousand Eighteen

PRESENT

HON'BLE SHRI R.RAMANUJAM, Member (A)

HON'BLE SHRI P.MADHAVAN, Member (J)

S.Karthik,
S/o.Sivachandran,
No.10/1, Palaniyammal Layout
Udumalpet, Tirupur District,
PIN 642 126.

....Applicant

By Advocate M/s R. Malaichamy

Vs

Union of India rep by,
The Superintendent of Post Offices,
Pollachi Division,
Pollachi 637001.

....Respondents

By Advocate Mr. M.Kishore Kumar

ORDER

(Pronounced by Hon'ble Shri R.Ramanujam, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

- "(i) To call for the records of the respondent pertaining to his order which is made in Memo No.B1/Tfr-II/Dlgs dated 30.08.2018 (in so far as the applicant is concerned) and set aside the same; and
- (ii) To pass such further orders as this Hon'ble Tribunal may deem fit and proper."

2. It is submitted that the applicant is aggrieved by his transfer from Anaimalai SO to Valparai SO by impugned order dated 30.08.2018.

3. Learned counsel for the applicant would draw attention to the guidelines for transfer issued by the Department of Posts, by a communication dated 31.07.2018 in which it is stated at Para 3A(ii) that the transfer of an official when requested for own convenience shall not be discouraged if they can be made without adversely affecting the rights of others.

4. It is alleged that the applicant's transfer had been effected to accommodate one P.Keerthivasan who is working in Valparai and who is now posted to Anaimalai in

terms of the same impugned order wherein it is stipulated that as the transfer is at his own request, no TA/TP would be paid to him. Before issuing the transfer order, the applicant's convenience was not ascertained and, therefore, the impugned order is violative of his rights under the transfer policy, it is contended.

5. It is further submitted that the applicant had only been transferred to his present location Anaimalai by an order dated 11.11.2016. Attention is drawn to Para 5.1 of the guidelines cited supra wherein it is mentioned that post tenure of an employee shall be 3 years and station tenure shall be 6 years provided that an employee may be transferred before completion of post/station tenure on administrative grounds for reasons to be recorded in writing by an authority who is superior to the authority competent to order such transfer. The authority competent to approve the rotational transfer in normal course will initiate the proposal with proper justification for approval of the superior authority. Learned counsel for the applicant would allege that this procedure had not been followed in the instant case and, therefore, the impugned order is vitiated by non-compliance of the requisite procedure. It is

accordingly, liable to be set aside, it is submitted.

7. Mr. M.Kishore Kumar, learned counsel who appears on behalf of the respondents would submit on instructions that the transfer order had been issued in terms of the recommendations of the Placement Committee and, therefore, no malafide could be alleged against the respondent.

8. On perusal, it is seen that the applicant has been moved out to accommodate a person who had requested for transfer to the applicant's location. However, the applicant has not made any representation against the impugned order and as such, he has not exhausted his departmental remedies. Under such circumstances, we are of the view that this OA could be disposed of with permission to the applicant to submit a detailed representation to the authority superior to the respondent herein, i.e., Director, Postal Services, Coimbatore, mentioning also any personal inconvenience caused to the applicant as a result of the mid-term transfer, within a period of 5 days from today. On receipt of such representation, the competent authority shall pass a reasoned & speaking order duly dealing with the points raised therein within a period of three weeks thereafter.

The applicant shall not be disturbed from his present location till then.

9. The OA is disposed of as above at the admission stage.

(P.MADHAVAN)
Member (J)

(R.RAMANUJAM)
Member(A)

06.09.2017

M.T.