

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/0089 of 2017
Cuttack this the 14th day of November, 2017

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARABGI, MEMBER(A)

Sri Chakrapani Behera, aged about 41 years, S/o. late Giridhari Behera, At/PO-Nimapara, Dist-Puri – presently working as Group Leader (Development Officer PLI), Bhubaneswar Division, Bhubaneswar, Dist-Khorda

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamanta
N.M.Rout
S.Dhal

-VERSUS-

Union of India represented through:

1. The Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, new Delhi-110 001
2. The Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khorda-751 001
3. Director Postal Services (HQ), Odisha Circle, Bhubaneswar, Dist-Khorda-751 001
4. Deputy Divisional Manager (PLI), O/o. C.P.M.G. Bhubaneswar Circle, At/PO-Bhubaneswar, Dist-Khorda-751 001
5. Assistant Director (Staff), O/o. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khorda-751 001

...Respondents

By the Advocate(s)-Mr.A.K.Mohapatra
ORDER

DR.MRUTYUNUJAY SARANGI, MEMBER(A):

The applicant who was working as Development Officer PLI at Bhubaneswar under the Deputy Divisional Manager, PLI, O/o. the Chief Post Master General, Orissa Circle at the time of

filings the O.A. has challenged the order dated 17.2.2017 posting him as Group Leader with headquarters at Khurda.

2. The applicant initially joined as Postal Assistant in Puri Division on 17.12.2002. In the year, 2011, he appeared for the Development Officer, PLI Examination and cleared the same. On 12.5.2012, he joined as Development Officer (PLI) and was allotted to Bhubaneswar Division. The post of Development Officer was redesignated as Group Leader by the Office Memorandum issued by the Department of Posts, Directorate of Postal Life Insurance dated 10.8.2016. The applicant was asked for his willingness to work as Group Leader on 14.9.2016 and he submitted his willingness for the same. On 29.12.2016, a notification was issued for conducting examination for selection of Group Leaders and 10 officials were selected by the Chief Post Master General, Orissa Circle, Bhubaneswar. In the order dated 17.2.2017 the applicant was also added as the 11th person in addition to the 10 persons selected as Group Leaders. His present place of posting was shown as Postal Assistant of Puri Division and his new place of posting was shown as Khurda as a Group Leader. The applicant is aggrieved by the fact that although he has done exemplary work and his business performance has far exceeded his target fixed by PLI, he was not allowed to continue in Bhubaneswar. Moreover, by the Office Memorandum dated 10.8.2016, the post of Development Officer, PLI had been redesignated as Group Leader and since

he was already working as Development Officer PLI, the respondents have erred in showing his existing designation as Postal Assistant of Puri Division. He has filed this O.A. praying for the following reliefs:

- i) That order dated 17.02.2017 (Annexure-A/9) so far as the applicant is concerned be quashed.
- ii) Further be pleased to pass any other order/orders as deemed fit and proper.

3. The applicant had also prayed for an interim relief by way of stay on the order dated 17.2.2017. Records show that on 23.4.2017, this Tribunal had passed an order directing the Respondents not to give effect to the order of transfer dated 17.2.2017 in respect of the applicant till the next date of listing. Interim order has continued from time to time.

4. The applicant has based his prayer on the following grounds:

- i) The action of the Respondent No.3 (Director of Postal Services, Headquarters), Orissa Circle, Bhubaneswar allotting him to Puri Division and fixing his headquarters at Khurda is bad in law. The Respondent No.2 selected 10 Group Leaders and directed Respondent No.5 to take necessary action to fill up the vacant posts and issued posting orders whereas Respondent No.3 has issued order of appointment and posting order of the applicant which is beyond his jurisdiction.
- ii) The applicant had already given his willingness to work as Group Leader and since his earlier posting as Development Officer, PLI has been redesignated as Group Leader he should have therefore been

allowed to continue in Bhubaneswar as Group Leader.

- iii) Treating the applicant as Postal Assistant of Puri Division and allotting him headquarters at Khurda is illegal and the action of the Respondent No.3 is violative of Articles 14 and 16 of the Constitution of India.

5. Respondents in their counter-reply filed on 24.5.2017 have contested the claim of the applicant. It is their contention that once the decision was taken to redesignate the post of Development Officer (PLI) as Group Leader, applicant was ordered by the Senior Superintendent of Post Offices, Bhubaneswar Division letter No. LI/14-1/2014 dated 21.09.2016 not to procure any direct PLI/RPLI business with effect from 15.9.2016 and was directed to surrender PLI/RPLI receipt books. Pending selection of the new Group Leaders, applicant was attached to the Central Processing Centre (PLI), Bhubaneswar vide order of the Senior Superintendent of Post Offices, Bhubaneswar Division dated 14.12.2016. In the notification for the selection of Group Leaders (A/7), it was clearly mentioned that there will be no fixed tenure for the newly selected Group Leaders in the new marketing system and they may work till their performance is satisfactory and till they achieve the target allotted to their groups by the Circle. As on 17.2.2017, the applicant was not working as Group leader. In the Directorate's letter dated 10.8.2016 it was mentioned that the Group leaders will be allocated as per the requirement based on business potential of the circle. The applicant who

belongs to Puri Division was ordered to be attached to Puri Division with headquarters at Khurda in the interest of service. Since the applicant belongs to Puri Division as P.A., it was considered appropriate to post him in Puri Division with headquarters at Khurda since he will be conversant with the business environment of Puri Division. After the applicant was posted to the Central Processing Centre (PLI), he was not attending to his duty regularly (Annexure-R/5) and vide letter dated 27.2.2017 (R/6), the Senior Superintendent of Post Offices, Puri Division had recommended action against him. The applicant also remained unauthorisedly absent from duty after the issue of the order dated 17.2.2017 and this was reported to the Deputy Divisional Manager (PLI), O/o. the CPMG by the Senior Superintendent of Post Offices, Bhubaneswar Division. The Respondents have defended their action in posting the applicant as Group Leader at Puri Division with headquarters at Khurda and submitted that the O.A. should be dismissed as devoid of merit.

6. The applicant filed a rejoinder on 5.9.2017 in which he submitted that he had applied for the post of Development Officer (PLI) against 1/3rd quota and unfilled 2/3rd quota vacancies on a tenure basis for a period of three years and had appeared in the examination for the said post on 8.1.2012. He had cleared the examination and was appointed by the Respondent No.3 to the post of Development Officer (PLI) vide

Memo dated 30.3.2012 and was allotted to Bhubaneswar Division. The post of Development Officer was redesignated as Group leader by the Directorate of Postal Life Insurance in the Memorandum dated 10.8.2016 and the applicant had given his willingness to work as Group leader. The 10 posts of Group Leader were filled through a process of selection whereas the 11th post was allotted to the applicant consequent to his willingness for the same. The applicant has also annexed documents to show that he has been given incentive as Development Officer, (PLI) for good performance and vide order dated 17.6.2015, he had been given an incentive of Rs.2,76,000/- for procuring a business of more than 22 crores by way of sum assured in Postal Life Insurance. The applicant is also aggrieved by the fact that after the redesignation of Development Officer (PLI) as Group Leader, he was not allowed to work as Group Leader, but was attached to the Central Processing Centre, PLI unlike other circles outside Odisha where the Development Officer (PLI) was allowed to work as Group Leader. The fact that he was not subjected to a new process of selection since he was already working as Development Officer (PLI) which has been redesignated as Group Leader, makes him different from the Group Leaders who were selected through a process of selection in the year 2016. He pleads that he should have been allowed to continue in Bhubaneswar after the redesignation of the post from

Development Officer (PLI) to Group Leader on the basis of his excellent performance instead of posting him to Khurda. His transfer to Khurda has been done with mala fide intention to accommodate another Postal Assistant from Bhubaneswar GPO at Bhubaneswar. Since the applicant was already working as Development Officer, PLI showing him as Postal Assistant of Puri Division is bad in law.

7. Respondents filed a reply to the rejoinder on 14.9.2017 in which they have reiterated that the post of Group Leader can be filled at any place within the Circle and the applicant has no right to claim continuation in Bhubaneswar Division. The competent authority has transferred him to Khurda Division and he should have joined at his new place of posting. The Respondents have also submitted that due to poor performance of the applicant in Bhubaneswar Division, he was allowed to procure policies from the Sambalpur Division to cope up with his assigned target. As per the revised guidelines, all Development Officers (PLI) were bebarred to procure direct business with effect from 15.9.2016 and the applicant was attached to the Central Processing Centre, PLI at Bhubaneswar GPO. He was displaying blatant acts of disobedience and indiscipline when he was posted at the Central Processing Centre, PLI. The applicant has been posted to Khurda Division on administrative reasons and therefore, the O.A. filed by him should be dismissed.

8. The Respondents have cited the judgment of the Hon'ble Supreme Court in Union of India & Ors. vs. S.L.Abas [AIR 1993 SC 2444] wherein it has been stated that an order of transfer can be questioned in a Court/Tribunal only when it was passed mala fide or where it was made in violation of statutory provisions.

9. We have heard the learned counsels from both the sides and perused the documents submitted by them. The grievance of the applicant is twofold : (i) his designation being shown as Postal Assistant in the transfer order dated 17.2.2017 and (ii) his posting to Khurda from Bhubaneswar. So far as his designation of P.A. is concerned, the applicant had already been appointed as Development Officer (PLI) in the Memo No.ST/20-23/2006 dated 30.3.2012 in the scale of pay of Rs.5200-20200 (PB-I) with Grade Pay of Rs.2800/- and was initially allotted to Bhadrak Division. He was subsequently transferred to Bhubaneswar Division. At the time of his promotion as Development Officer (PLI), he was working as Postal Assistant. Pursuant to the redesignation of the post of Development Officer (PLI) as Group Leader, the applicant had given his option for the post of Group Leader. However, he had not been designated as Group leader till 17.2.2017. Since the Respondents had decided not to continue the work of procurement of business under PLI, he was posted in the Central Processing Centre, PLI from September, 2016. However,

the pay slip attached by the applicant for the month of January, 2017 shows his designation and pay scale as Development Officer (PLI) in the scale of Rs.5200-20200/-. The pay slip for February, 2017 also shows him as Development Officer (PLI). The Respondents have not designated him as Group Leader till he actually joins in the post pursuant to the order dated 17.2.2017. However, in their official records they are still showing him as Development Officer (PLI). Obviously till the actual re-designation is done specifically to the applicant from his post of Development Officer (PLI) to Group Leader, he has to continue to be shown as Development Officer (PLI) and not as Postal Assistant. The applicant was a Postal Assistant when he was appointed as Development Officer (PLI). The other 10 candidates, who went through the process of selection, in the order dated 17.2.2017 were appointed as Group Leaders from the post of Postal Assistants whereas the applicant was appointed as a Group Leader from the post of Development Officer (PLI). Therefore, the first part of his grievance regarding his designation as Postal Assistant of Puri Division is undoubtedly genuine. The Respondents should issue orders mentioning his current designation as Development Officer (PLI) when he was appointed and posted as Group Leader vide order dated 17.2.2017.

10. So far as the second aspect is concerned, the applicant is on weak ground since posting and transfer of an employee is

purely an administrative decision in which Tribunals are not expected to interfere unless there is palpable mala fide or violative of rules and law. The Hon'ble Supreme Court in ***Rajendra Singh v. State of U.P. (2009) 15 SCC 178*** has laid down the principle that a Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. In ***Kendriya Vidyalaya Sangathan vs. Damodar Prasad Pandey (2004) 12 SCC 299***, the Hon'ble Supreme Court has held that transfer which is an incidence of service is not to be interfered with by courts unless it is shown to be clearly arbitrary or visited by mala fide or infraction of any prescribed norms of principles governing the transfer (Also see ***Abani Klanta Ray v. State of Orissa [1995 Supp (4) SCC 169]***). It has also been held by the Hon'ble Apex Court in ***Shilpi Bose & Ors. vs. State of Bihar & Ors. in AIR 1991 SC 532*** that Courts should not interfere with the orders of transfer of an employee unless such transfer orders have been made in violation of any mandatory statutory rules or on the ground of mala fide. The fact that there is a very limited scope of judicial review in the matters of transfer has also been reiterated by the Hon'ble Apex Court in ***N.K. Singh vs. Union of India & ors. (1994) 6 SCC 1998***.

11. In the present O.A., the applicant has been redesignated as Group Leader from his existing post of Development Officer (PLI). It is for the Respondent Nos. 2 and 3 to decide the place

of posting of Group Leaders on account of administrative interest of the organization and the recurring volume of business and the suitability of the candidates. In view of the judicial pronouncements and the case laws, we have no reason to interfere in the posting of the applicant as Group Leader to Puri Division with the headquarters at Khurda. The order passed by the respondents dated 17.2.2017 only needs to be modified to the extent that the existing designation of the applicant should be put as Development Officer (PLI) instead of Postal Assistant. The Respondents are directed to pass an order accordingly within a period of six weeks from the date of receipt of this order. The posting of the applicant to Puri Division with Headquarters at Khurda will stand. Ordered accordingly. No costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

(S.K.PATTNAIK)
MEMBER(J)

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