

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/729/2017

Date of CAV : 16.11.2021

Date of Pronouncement : 26.11.2021



Hon'ble Mr. B.V. Sudhakar, Admn. Member

1. A. Srinivasulu,
S/o. A. Lingaiah,
Aged 45, Occ: Sorting Assistant (A/c.),
Hyderabad AIR Unit, Hyderabad Sorting Division,
HYDERABAD - 500 016, T.S.
2. S.Srikanth
S/o late S.Bikshapathy
Age: 41 years Sorting Assistant (A/c.),
HYDERABAD - 500 016, T.S.
3. P.Satyanarayana
S/o late Dharmaih Dycontant
RMS Z Division, & Divisional Secretary
NUR-III (FNPO).
HYDERABAD - 500 001, T.S.

...Applicants

(By Advocate : Mr. B. Gurudas)

Vs

1. Union of India represented by its
Secretary to the Government of India,
Ministry of Communications & I.T.,
Department of Post, Dak Bhavan, Sansad Marg,
NEW DELHI -110 001.
2. The Director General of Posts,
Department of Post, Dak Bhavan,
Sansad Marg, NEW DELHI -110 001.
3. The Chief Postmaster General,
Telangana Circle, Dak Sadan, Abids,
HYDERABAD - 500 001.
4. The Chief Postmaster General,
Andhra Pradesh Circle, Vijayawada,
VIJAYAWADA-520001, A.P.

5. The Postmaster General,
Head Quarter Region, DakSadan, Abids,
HYDERABAD - 500 001.



6. The Postmaster General,
Hyderabad Region, DakSadan, Abids,
HYDERABAD - 500 001.

7. The Superintendent,
RMS 'Z' Division, HYDERABAD- 500 001.

8. The Senior Superintendent,
Hyderabad Sorting Division, HYDERABAD-500027.

9. Sri R. Shyam Sunder, S/o. Not known,
Posted AHRO, RMS-Z Division, Hyderabad.

...Respondents

(By Advocate: Smt. D. Shobha Rani, Addl. CGSC)

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

Through Video Conferencing:



2. The O.A. is filed in regard to the transfer of Respondent No. 9 from A.P. Circle to Hyderabad Region in August, 2017 ignoring the interest of the local staff.

3. The brief facts of the case are that consequent to the bifurcation of the composite State of Andhra Pradesh, two postal circles namely Telanagana and A.P Postal Circles with Head quarters at Hyderabad and Vijayawada were created w.e.f. 1.7.2016. Options were called for to post staff members in the newly formed A.P. Postal Circle and transfer orders were issued vide letter dated 17.10.2016. In the same order it was mentioned that the cases of some officials whose options could not be considered due to lack of vacancies would be dealt with on a later date under Rule 38. Three officials have come under this category. One among them Sri R.ShyamSunder (*Respondent No.9 herein*) has been transferred and posted to RMS 'Z' Division. The grievance of the applicants is that Rule 38 transfer has to be issued only when there is a request from the employee and not on administrative grounds. Aggrieved that such a transfer would affect their future promotions, the O.A. is filed.

4. The contentions of the applicants are that Rule 38 transfer cannot be effected on administrative grounds. There has to be request from the official to effect Rule 38 transfer. Further, it cannot be ordered against future vacancies. Applicants No.1 & 2 represented to



post them as LSG Accountants since they are fully eligible for the same. The Staff Unions have also objected to posting officials in future vacancies under Rule 38 and the respondents did not care to respond to their representations. The transfer of R-9 to RMS 'Z' Division is not clear as to whether it is in public interest i.e. under Rule 37 or under Rule 38 and it is against Postal Directorate's orders dated 1.7.2016. The transfer order of R-9 dated 2.8.2017 issued with reference to the letter dated 17.10.2016 appears to be under Rule 38 but the conditions of Rule 38 transfer have not been mentioned. Rule 38 transfers are applicable only for Time Scale post and not for promotional posts. The Postal Directorate allowed employees to opt for either of the Circles as a one time option and that it cannot be a continuous affair. Therefore, transferring R-9 against future vacancies is violative of the Postal Directorate's order cited. The department of Telecom vide its letter dated 7.4.2016 has made it clear that Rule 38 transfers are applied only for mutual exchange. The transfer of R-9 does not come under this category and due to his transfer under Rule 38, the future career of the senior officials in Telangana Circle has been adversely effected. The transfer guidelines laid down in Memo dated 31.1.2014 have flagrantly been violated.

5. Respondents in their reply statement state that a decision was taken to allot employees to the newly formed Circles based on their willingness to the extent possible. Consequently, they were granted one time option to opt either for Telangana or A.P. Circle. In the process, requests of 52 officials could be considered but could not



consider the requests of 3 officials because of lack of vacancies. The Chief Post Master Generals of both the Circles met and decided that the cases of the 3 officials whose cases could not be considered for lack of vacancies, can be processed under Rule 38. Accordingly, the transfer of Sri Shyam Sunder from RMS 'Y' Division of Vijayawada to RMS 'Z' Division, Hyderabad was approved on 2.8.2017. The transfer was effected as per the relevant rules. Representations of Applicants No.1 & 2 were not received through proper channel. As per Rule 6(b) of CCS (RSA) Rules, 1993, Unions should not take up individual cases. The request of R-9 was registered in the request register before bifurcation of the State and, therefore, even based on his request, the transfer is valid. The future vacancies in Telangana will be filled up by conducting DPC.

6. Heard both the counsel and perused the pleadings on record.

7(I) The dispute is about transfer of Sri R. Shyam Sunder (R-9) from RMS 'Y' Division, Vijayawada to RMS 'Z' Division at Hyderabad. The contention of the applicants is that the transfer of R-9 was effected incorrectly under Rule 38. The respondents claim that the transfer is in order since R-9, a departmental promotee and an OC candidate was considered against a DP & OC vacancy in Telangana Circle, as provided for under the provisions of Rule 38. Moreover, it has been contended by the respondents that the request of R -9 was registered in the Request Register before bifurcation of the State on 17.11.2015. He has been waitlisted at Sl.No.1 and, therefore, the moment vacancy arose in RMS 'Z' Division due to selection of the



incumbent as Assistant Accounts Officer, the case of R-9 was considered. Even on this ground, the transfer R-9 from Vijayawada to Hyderabad is as per norms. The Postal Directorate has given the liberty to the Chief Post Masters General to discuss the modalities of distribution of staff between the two Circles. In the process, they have come to an understanding that those officials, who could not be accommodated for lack of vacancies, can be considered under Rule 38. Though the Tribunal agrees with the contention of the applicants in regard to ordering transfer under Rule 38, in the instant case, the aspect of request of R-9 having been recorded in the Request Register on 17.11.2015, it would be unfair to not to consider his request when it is pending and is waitlisted at Sl.No.1. The above fact definitely goes in favour of Sri R. Shyam Sunder. Hence, the applicants challenging his transfer would not be maintainable.

The Unions taking up this with the management and there being no response is explained by stating that Rule 6(b) of CCS (RSA) Rules 1993 prohibit the Unions to take up individual cases. Bifurcation of Circles occurs rarely and during such circumstances, practical alternatives have to be worked out by the respondents. In order to alleviate the grievance of the officials, the respondents have considered the request of R-9 as per rules because of his request being registered for Telangana Circle way back in 2015.

(II) The other contentions made by the applicants have been gone through and finding them to be irrelevant they have not been commented upon.

(III) The respondents have also categorically stated that for all future vacancies, DPCs will be conducted and promotions will be effected. This will take care of future career of the applicants.



In view of the above, this Tribunal does not find any merit in the O.A. and hence the same is dismissed with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

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