

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original application No.040/00252/2019

Date of Order: This the 06.08.2019

**HON'BLE MRS.MANJULA DAS, JUDICIAL MEMBER**

Sri Rajendra Pandit,  
 S/o Lt.Fudena Pandit  
 Postal Assistant,  
 Itanager Head Post Office,  
 Dist.Papumpare, PIN-791111.  
 Arunachal Pradesh

Applicant.

By Advocate : Mr.B.Das

-Versus-

1. Union of India  
 Through the Secretary  
 Ministry of Communication,  
 Dak Bhawan, New Delhi-110001
2. The Chief Postmaster General (Staff)  
 Department of Posts  
 North East Circle, Shillong,  
 Meghalaya-793001
3. The Director of Postal Services,  
 Arunachal Pradesh Division,  
 Department of Posts, Itanager-791111
4. The Chief Postmaster General (Staff),  
 Bihar Circle, Patna-800001.
5. The Superintendent of Post Offices,  
 Vaishali division,  
 Hajipur-844101 (Bihar).                      ...                      Respondents

By Advocate: Mr.V.K.Bhatra, Sr.C.G.S.C.

**O R D E R (ORAL)**

**Per Mrs.Manjula Das, Judicial Member:**

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs.

“8.1 Direct the Respondent No.3, i.e the of Postal Services, Arunachal Division to forward/recommend the applicant's application under Rule 38 of P & T Manual Vol.IV for inter Circle transfer to Vaishali Division, Bihar Circle, to the Chief Post Master General (Staff), Department of Posts, North East Circle, Shillong i.e Respondent No.2 without further delay.

(ii)Direct the Chief Post Master General (Staff), North East Circle, Shillong, i.e Respondent No.2 that on receipt of the applicant's application for inter circle transfer under Rule-38 of P&T Manual Vol.IV, same should be forwarded to Chief Post Master General Bihar Circle (Staff), Patna, without further delay.

(iii) It is further prayed that the respondent authorities may be directed to take all steps for transferring the

applicant under Rule-38 of P & T Manual Vol.IV to Vaishali Division under Bihar Circle, Patna from Arunachal Pradesh Division under North East Circle, Shillong without further delay.

iv) Any appropriate Order or Direction to give full and effective relief's to the applicant."

2. Mr.B.Das, learned counsel for the applicant submitted that the applicant initially joined in the Postal Services as post man in the year 2002, and posted at Daporojo SO under Director Postal Services Arunachal Pradesh Division, Itanagar. In the year 2005 from Daporijo S.O. he was transferred to Itanagar, HO. While working at Itanagar HO, applicant appeared in LGO Examination on 2013 for the post of Postal Assistant and he was declared successful on 21.4.2014. While working as a Postal Assistant at Itanagar, applicant was transferred to Seppa S.O. vide order dated 25.08.2014, then to Itanagar S.O. vide order dated 08.03.2017. Thereafter, vide order dated 18.03.2017, he was transferred to Sagaliee SO under Papumpare District from where the applicant was again transferred to Naharlagun SO. Thereafter, vide order dated 03.02.2018, he

was sent on deputation to Ranganadi Project SO, Yazali, District Lower Subansiri wherefrom he was transferred to Itanagar Head Post office in which he is continuing as such.

3. Learned counsel further submitted that while the applicant was working as a Postman at Itanagar HO, under Director of Postal Services, AP Division (Respondent No.3) he applied for inter circle transfer under Rule 38 of P & T Manual Vol. IV from Arunachal Pradesh Division, Itanagar under North East Circle Shillong to Vaishali Division, under Bihar Circle, Patna on the ground of ill health of his wife Smti Mila Devi. Thereafter, the Inter-circle transfer of the applicant under Rule 38 was duly approved by the Chief Postmaster General(Staff), Department of Posts, North East Circle, Shillong, i.e. Respondent No.2 vide letter No.STAFF/152-10/2011 dated 09.02.2012.

4. According to learned counsel for the applicant despite the approval of the Respondent No.2, the inter circle transfer of the applicant was kept pending for long time. Situated thus, the applicant's wife Smti Mila Devi had

made a representation before the Hon'ble Prime Minister of India on 07.06.2017, after which, vide letter No.STAFF/152-10/2011 dated 14.07.2017, the Asstt. PMG(Staff), O/O the Chief Postmaster General, N.E.Circle, Shillong requested the SP(HQ), Itanagar to obtain fresh application under Rule 38 from the applicant and also requested to forward the same to the office of the Chief Post Master General, N.E.Circle, Shillong along with recommendation at the earliest.

5. Learned counsel further submitted that the applicant had again submitted his fresh application under Rule 38 and the same was forwarded to the office of the Respondent No.2 on 07.08.2017 from the office of the Director of Postal Services, AP Division, Itanagar without recommendation, showing the cause as shortage of the staff in A.P. Division.

6. Learned counsel for the applicant further submitted that the applicant's wife Smti Mila Devi again made a representation on 18.08.2017 before the Hon'ble Prime Minister, Govt of India for consideration of the

application of the applicant under Rule 38. In response to the said representation, the Section Officer (SPB-II), Ministry of Communication, Department of Post, vide letter dated 25.09.2017 requested the respondent No.2 to take further necessary action as per rule.

7. According to the learned counsel for the applicant Shri B.Das, the applicant has a right to request for inter circle transfer and Respondent No.2 & 3 has discretion to consider the same and forward /recommend to respective circle. However, such discretion is not unfettered and has to be exercised reasonably and not arbitrarily in a pick and choose manner.

8. Learned counsel for the applicant submitted that the Respondent No.3 has exercised the discretion arbitrarily, unfairly and unreasonably by not forwarding/recommending the case of the applicant for inter circle transfer, whereas Smti Bidyarani Devi, who is junior to the applicant has already been transferred under Rule 38 of the P&T Manual Vol.IV. Learned counsel also submitted that vide

letter dated 21.12.2018 office of the Respondent No.2 has requested the Respondent No.3 to re-examine the Rule 38 transfer of the applicant, but the Respondent No.3 has not yet considered the same.

9. Mr.V.K.Bhatra, learned Sr.C.G.S.C. for the respondents prayed for time to obtain instructions but as the matter is pending before the respondent authority since 2011 and till no fruitful action was taken by the respondents authority, as such, I am not inclined to grant time for taking instructions as the matter is already pending before the Chief Postmaster General who is the competent authority and can take the matter for consideration.

10. I have heard learned counsel for the applicant, perused the pleadings and the documents produced before me.

11. It is noted that the applicant initially joined the postal services as Postman in the year 2002. Since 2011, applicant made his application on request under Rule 38 of the P&T Manual Vol.IV as prescribed by the authority.

However, still the matter is not sorted out. It was alleged by the applicant that one of the Station junior at Arunachal Pradesh Smti Bidyarani Devi whose case has been considered favourably by the authority vide discharge letter dated 24.3.2018 to make the transfer as per her request at senior station but the applicant's case was not considered.

12. From the perusal of O.A. and the annexures, it appears that the case of the applicant was forwarded by the Respondent No.3 to the Respondent No.2, without recommendation on the ground of shortage of staff in the A.P.Division.

13. During the course of argument, learned counsel for the applicant has drawn my attention to the Annexure A-4 letter dated 21.12.2018 vide which the Respondent No.2 had requested Respondent No.3 to re-examine the case of the applicant. The contents of the letter is quoted below:-

“ With reference to the above cited letter, it is requested to kindly re-examine the Rule-38 case of the above official



which was not recommended by you earlier **due to acute shortage of staff as recently this office has received an information from your office that there are lots of surplus PA in your division.**"

Action taken may kindly be intimated to this office immediately as report on the same is called by Postal Directorate."

14. The Respondent No.2 who is the competent authority to consider inter circle transfer has passed orders to re-examine the Rule 38 transfer of the applicant, the Respondent No.3 has not acted on the same. Since the competent authority has already observed that there are lots of surplus Postal Assistant in the A.P.Division, this court fails to understand the reason for not recommending the case of the applicant by the Respondent No.3. On the face of letter dated 21.12.2018 this Court is not inclined to grant time to Sr.C.G.S.C. to obtain instruction.

15. Accordingly, without issuing notice to the respondents, I direct the Respondent No.2 & 3 to consider application of the applicant under Rule 38 of P&T Manual Vol.IV in the light of the letter dated 21.12.2018 (Annexure 4)

as expeditiously as possible but not later than 2 months from the date of receipt of this order.

16. In my view, if the matter is not disposed of by this Court, the applicant may suffer as the competent authority has already observed that there are lots of surplus PA in the A.P. Division.

17. With the above directions, O.A. stands disposed of at the admission stage itself. No order as to costs.

(MANJULA DAS)  
JUDICIAL MEMBER

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