

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 424 OF 2011**

Wednesday, this the 12<sup>th</sup> day of January 2012

**CORAM:**

**HON'BLE Dr.K.B.S RAJAN, JUDICIAL MEMBER**

S Sobhan  
Postal Assistant  
SBCO Kottarakara H.O  
Kottarakara

Applicant

(By Advocate Mr. Vishnu S Chempazhanthiyil)

**Versus**

1. The Union of India, represented by the  
Chief Postmaster General  
Department of Posts, Kerala Circle  
Thiruvananthapuram – 695 033
2. The Assistant Post Master General (Staff)  
Office of the Chief Post Master General,  
Kerala Circle, Thiruvananthapuram- 695 033
3. The Director of Postal Services (HQ)  
Kerala Circle, Thiruvananthapuram-695 033
4. The Senior Superintendent of Post Offices  
Kollam Division, Kollam – 691 001

Respondents

(By Advocate Ms.Deepthi Mary Varghese, ACGSC)

The application having been heard on 12.01.2012, the Tribunal on  
the same day delivered the following:



**ORDER**

1. This is the third round of litigation. In the earlier Original Application No. 701/2008, this Tribunal had passed the following order vide order dated 26.02.2009:-

“ 10. Thus, in so far as filling up of the post at Kottarakara is concerned, there cannot be a better justification for the department. However, the question is whether it is a fact that there are persons with more station seniority than the applicant. In other words, is it a fact that many persons are rotated within a few offices at Trivandrum area and the applicant has been transferred leaving them. This is for the authorities to consider and justify. Nevertheless, this aspect should for the time being be de-linked from the transfer order as it may take some time for the authorities to verify the same. Hence, interest of justice would be met if the following directions are issued:-

(a) **The applicant has to move first to Kottarakara where there is none to man the lone post in SBCO.**

(b) Respondent No. 2 and 3 shall undertake an exercise of verifying the fact as to whether there are persons working in Trivandrum District for a substantial period as alleged by the applicant vide para 2 of the rejoinder and if the authorities are convinced that such local rotation should also be taken into account as a part of station tenure, consider shifting of such persons with longest station seniority. In that event the applicant could well be brought back to Trivandrum Dist. taking into account the fact that he has been transferred within two years or so at Trivandrum. If such a transfer of the applicant back to Trivandrum takes place within a period of six months, for future transfer, his earlier stay at Trivandrum would also be accounted for.

11. OA is disposed of on the above terms. No costs. “

2. In pursuance to the above order the applicant had joined at Kottarakara and according to the applicant, he has been sanguinely hoping that, at the time of rotational transfer, his request for transfer to Trivandrum District, would be favorably considered. However, when the rotational transfer order

was passed vide Annexure A-4, his name did not figure therein. Thus a grievance has arisen to the applicant that he is not posted back to Trivandrum District.

3. Yet another grievance has arisen that the applicant has been transferred from Kottarakara to Karunagappally vide Annexure A-5. The applicant being a physically challenged person who already feels difficulty in carrying out his functions at Kottarakara is now sought to be transferred to a still far off place i.e; Karunagappally and hence this O.A has been filed praying for the following reliefs:-

“ 1. Call for the records leading to the issue of Annexure A-5 and set aside Annexure A-5

2. Direct the 1<sup>st</sup> respondent to consider and pass orders on Annexure A-6 forthwith.

3. Direct the respondents to consider posting the applicant in any units in Thiruvananthapuram District. ”

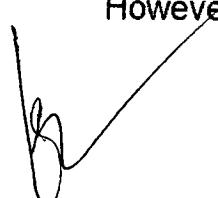
4. Respondents have contested the Original Application. They have indicated that in so far as the applicant's request for posting back to Trivandrum District is concerned, as in his entire span of career major portion eleven out of twenty one years has already been spent by him at Trivandrum, it was felt that he be not posted to Trivandrum District under rotational transfer. He is one among such persons who have put in large number of years of service in Trivandrum District. One person namely, Mr.Laxmi Narayanan who has more station seniority in Trivandrum District has been retained in the interest of the Institution as the said individual had undergone

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a specialized training at Mysore to function as a Trainer, which job he is satisfactorily carrying out. As regards shifting of the applicant from Kottarakara to Karunagappally, the explanation of the respondents is that as per Annexure R-2 the applicant had been on leave on a number of occasions totaling 158 days from 17.04.09 to 03.05.2011. It is the case of the respondents that the purpose of the applicant being sent to Kottarakara, as fully appreciated by the Tribunal, is that the office at Kottarakara has no proper hands to function. Under such circumstances, the applicant's intermittent absence was not congenial to the administration of the Kottarakara office. It has also been stated that a fresh hand has been appointed, but without proper support, the fresh hand may not be able to carry out the duties.

5. The applicant has filed his rejoinder stating that in so far as physically challenged persons are concerned, attempts should be made to post such persons as far as possible to a place near to their native place (Annexure A-7 (Item No.7 refers). He has also submitted that as per the office Memorandum dated 30.09.2009, attempts should be made to post both the husband and wife in the same place if both of them are employed. In the instant case, the spouse of the applicant is employed at Trivandrum District Co-operative Bank, Trivandrum.

6. Counsel for the applicant submits that earlier applicant had sought a personal hearing to explain his case before the Chief Post Master General. However, he was not permitted to meet the CPMG, though Assistant Chief

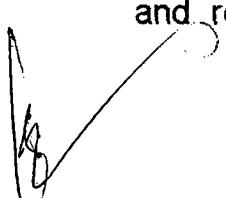
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Post Master General was directed to hear the applicant. A representation has been given to the said ACPMG in addition to make oral submissions. This representation is pending consideration by the authorities. The counsel further stated that while the applicant's grievance will be thoroughly redressed by being posted to Trivandrum District, the least that the department could have done was not to disturb him from Kottarakara. Posting the applicant to a far-off place from Kottarakara makes the situation worse in view of the applicant's health condition coupled with the fact that the applicant's son is studying in 10<sup>th</sup> standard, who may require some assistance from the applicant in respect of his studies.

7. Counsel for the respondents has taken me through the counter and explained in brief the reasons for the applicant not being posted to Trivandrum Division and also the reasons for posting him out of Kottarakara to Karunagappally. As regards pending representation, the counsel has no instructions.

8. Arguments were heard and documents perused.

9. The applicant is a Group C employee and in matters of transfer, the government is normally liberal in acceding to the request of such employees especially when the employees are physically challenged. Annexure A-7 is a concrete proof in this regard. Further, posting of husband and wife in the same station when the spouse is also employed, has been fully appreciated and recognised by all, including the 6<sup>th</sup> CPC, and accordingly O.M dated

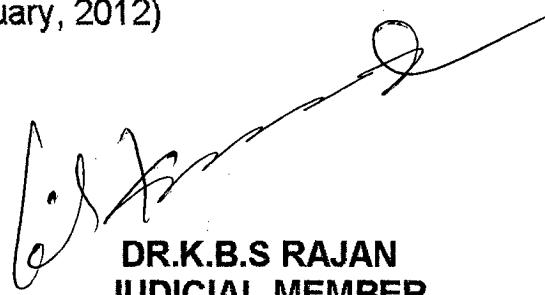
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30.09.2009 came to be issued. The applicant has already made a representation to the CPMG and the same is pending consideration.

10. This Tribunal is of the considered view that interest of justice will be fully met if direction is given to the CPMG to consider the representation made by the applicant in the light of the provisions contained in Annexure A-7 & A-8 orders of the Ministry and arrive at a judicious conclusion. Till such time the said representation is considered and decided, the applicant shall continue at Kottarakara. Should the CPMG decide to affirm the impugned transfer order, sufficient time shall be given to the applicant to move and the respondents shall not relieve the applicant without giving sufficient time for making arrangements for the move, or to make representation, if any.

11. With the above direction, this Original Application is disposed of. No costs.

(Dated, this the 12<sup>th</sup> day of January, 2012)



DR.K.B.S RAJAN  
JUDICIAL MEMBER

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