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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated this the 08th day of April ,2011

C O R A M

HON'BLE Mrs. K.NOORJEHAN, ADMINISTRATIVE MEMBER

O.A. NO.461/2010

P.T.Ramesan, S/o P.Thevan, Upper Division Clerk,
Regional Passport Office, Kochi
residing at Payyappilly Chirayil, Avanancolde P.O,
Chovvara P.O, Ernakulam District.

Applicant

(By Advocate Mr. TC Govindaswamy)

Vs.

1 Union of India represented by the Secretary to the Govt of India Ministry of External Affairs, New Delhi.

2 The Joint Secretary & Chief Passport Officer Ministry of External Affairs, New Delhi.

3 The Under Secretary (PVA), Ministry of External Affairs, (CPV Division) New Delhi.

4 The Regional Passport Officer Regional Passport Office, Kochi.

Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

O.A No.462/2010

K.U.Sobhana, W/o K.K.Subhashan
Upper Division Clerk,
Regional Passport Office, Kochi
residing at Karippurath House,
Moolampilly P.O, Kochi - 682027.

Applicant

(By Advocate Mr. TC Govindaswamy)

Vs.

1 Union of India represented by the
Secretary to the Govt of India
Ministry of External Affairs, New Delhi.

2 The Joint Secretary & Chief Passport Officer
Ministry of External Affairs, New Delhi.

3 The Under Secretary (PVA), Ministry of
External Affairs, (CPV Division) New Delhi.

4 The Regional Passport Officer
Regional Passport Office, Kochi.

Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

These applications having been heard on 24.2.2011, the Tribunal delivered the following:

ORDER

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

These two applications involve common questions of facts and law and are, therefore, disposed of by this common order..

2 Both the applicants are presently working as Upper Division Clerk in the Regional Passport Office, Kochi under the 4th respondent and they belong to Scheduled Caste community. They are aggrieved by Annx.A1 order dated 24th May 2010 issued by the 3rd respondent transferring them to Passport Office Malappuram. They impugned the transfer order as arbitray, discriminatory and against the transfer policy of the respondent

department. They contended that as per the transfer policy, Annx.A2, LDCs and UDCs are not liable to be transferred and in cases where transfer becomes essential it should be based on stay-wise seniority at a particular station. They further contended that the post of Assistants is the promotional post for the UDCs. Against the strength of 20 Assistants there are 54 Assistants presently working whereas as against the sanctioned strength of 31 UDCs there are only 18 incumbents and the remaining 13 UDCs unfilled posts are utilised by the excess Assistants. It is alleged by applicants that their representations Annx.A4 & A5 against the transfer have yielded no response. They prayed to quash and set aside the transfer order Annx.A1 to the extent it relates to the applicants and direct the respondents to grant the consequential benefits as if Annx.A1 had not been issued.

3 On the contrary the respondents in their reply submitted that all the transfers made to Passport Office Malappuram are in public interest and the applicants have been transferred alongwith other officials from various Passport Offices by the Transfer Board of Central Passport Organisation, Ministry of External Affairs, New Delhi in accordance with the Transfer Policy of 2010. Eversince the applicants entered the service, they have been working in Regional Passport Office Cochin since 17.7.89 and 25.9.89 respectively. Their transfer to Malappuram is as per the criterion of station seniority and their names figured at Sl..No.1 and 2 respectively, the first and second senior most, as per station seniority. They have controverted the

fact that LDCs and UDCs are not liable to be transferred by referring to Annx.R2, the revised transfer policy. They further contended that the transfer order is not arbitrary and issued by the competent authority in public interest on administrative grounds. It does not suffer from any violation of statutory rules.

4 The applicants filed rejoinder reiterating the facts as stated in their application to which the respondents have filed additional reply stating that the new Passport Office Malappuram was opened in 2006 and due to scarcity of staff at Malappuram the officials from other Passport Offices in the Region were transferred to Malappuram. According to the transfer policy guidelines, tenure for Group C and Group B officials shall be 24 months, at Malappuram Passport Office.

5 Heard the learned counsel for the parties and have perused the records.

6 There is no doubt that any transfer order which is not on the request of an employee, does result in certain personal inconvenience but the transfer is a necessary incidence of service. The Courts/Tribunals have limited scope for interference in such matters, as has been held repeatedly by various Courts and the Apex Court of the land and such interference is occasioned only when the transfer order is against any statutory provisions or the order is passed by an authority not competent to do so or it suffers from malice or malafides or colourable exercise of power. Since the applicants are senior most on the basis of the station seniority viz Sl.No.1 & 2 respectively therefore their name figured in the impugned

transfer order Annx.A1. The respondents have stated that all officials transferred to Malappuram office, will be retransferred, on completion of the tenure of 24 months, of course, subject to administrative exigencies.

7 In view of the above, I am of the opinion that the applicants have no case and these OAs devoid of any merit are liable to be dismissed.

8 I, therefore, dismiss the OAs with no order as to costs.

(K.NOORJEHAN)
ADMINISTRATIVE MEMBER

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