

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A No. 494 / 2009

Monday, this the 1<sup>st</sup> day of November, 2010.

CORAM

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

HON'BLE DR K.B.SURESH, JUDICIAL MEMBER

Binsha Mol.C.,  
W/o Gireesh A,  
Mundathadathil House,  
Vallilapuzha.P.O.,  
Areecode, Malappuram. ....Applicant

(By Advocate Mrs TB Mini )

v.

1. Union of India represented by  
Secretary to Govt. of India,  
M/o Communications,  
Department of Post, New Delhi.
2. Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.
3. Assistant Postmaster General(S),  
Kerala Circle, Trivandrum.
4. The Postmaster General,  
Northern Region, Calicut.
5. Senior Superintendent of Post Office,  
Manjeri Division, Manjeri,  
PIN: 676 121.
6. Smt A.M.Geetha Devi,  
GDSBPM Vallilapuzha.P.O.  
Malappuram Dst-673 639. ....Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R.1 to 5)

(By Advocate Mr Shafik M.A for R.6)

This application having been finally heard on 19.10.2010, the Tribunal on 1.11.2010 delivered the following:

*KB*

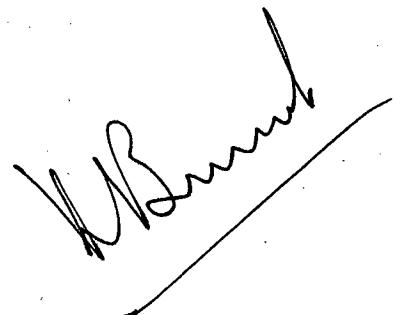
ORDER**HON'BLE DR K.B.SURESH, JUDICIAL MEMBER**

The applicant is a Gramin Dak Sevak who was appointed pursuant to Annexure A-1 notification dated 22.7.2008 issued by the competent authority. This application was for appointment to the post of GDSBPM, Vallillapuzha on temporary basis. Apparently, the applicant also applied and was selected and issued with an appointment order Annexure A-2 dated 24.9.2008. The Annexure A-2 would say that she has been provisionally selected as GDSBPM on purely temporary basis subject to verification of residential condition and other aspects. In normal case, to the uninformed and even to the partial informed this will solicit a case that the appointment will be provisional and temporary subject to verification of residential condition and other aspects. She would say that thereafter, she had been appointed and is handling the BPO from 5.10.2008.

2. But from two months later, wisdom seems to have dawned on authorities. They issued Annexure A-4 order dated 3.12.2008 clarifying that the said post at Vallillapuzha has been made on a provisional basis from 15.10.2008 till regular appointment is made. It is to be noted in this connection that at that time the applicant has worked almost 2 months in that post. It was mentioned that the provisional appointments made will be terminated when regular appointment is made. But all other notifications and the offer of appointment is silent on the nature of the appointment. The applicant would contend that once the appointment has been made and she believing the version of the authorities have accepted the employment. She would then contend that she had a legitimate expectation for the continuation of such employment. According to her, her residential qualification and other aspects has been satisfactorily approved by the competent authority.

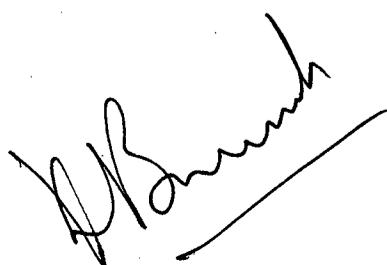


3. It appears that the 6<sup>th</sup> respondent was a GDSBPM, Keezhuparambu and she had been working there from 1.8.2001. An order of provisional appointment was also issued to her as well and she would say that her appointment order is dated 13.9.2001. It would appear that the Postal Department appoints people in posts and issues appointment orders much later. She was apparently appointed in a post where the incumbent was put off from service but she was directed to be reinstated on the basis of orders of this Tribunal. But both the applicant the 6<sup>th</sup> respondent had completed more than 5 years, she claimed alternative employment and consequently a memo dated 19.6.2008 had been issued deploying her as appointed as GDSBPM, Omanur BO while she was working as GDSBPM, Cheruvayor, from 21.7.2007 onwards. But she finds that her new position was uneconomical and therefore, she submitted repeated representation for a transfer and apparently the request made by the 6<sup>th</sup> respondent found favour with the authorities who had issued the order of 15.5.2009 to transfer her to Vallillapuzha on her request. It would appear that she had reached thereon 6.5.2009. She would say that she had been given a letter of appointment on 5.5.2009 whereas she was already in employment and therefore could only have been transferred but GDS cannot be transferred otherwise than in compliance with rules. But admittedly she reached along with SDI, Malappuram on 6.5.2009 i.e. Going by the normal parlance it is before the issuance of the appointment order. The SDI apparently handed over charge of the Vallillapuzha BPO to the 6<sup>th</sup> respondent. The question which would arise in this connection is that if the Post Office accommodation is to be provided by the GDS themselves how could the SDI handover charge to the 6<sup>th</sup> respondent without any advance notice and a selection of premises. Any how aggrieved by this, the applicant is before us now.

A handwritten signature in black ink, appearing to read "W B", is written over a diagonal line. The signature is stylized and somewhat abstract, with a large, sweeping flourish on the left.

4. The respondents would say that the 6<sup>th</sup> respondent was provisionally appointed as GDS, Keezhuparambu in the vacancy of Smt O.K.Pennutty and she was to be at Kizhuparambu where Smt Geethadevi was to be appointed as GDS, Omanur in lone available vacant post then. At that point of time Vallillapuzha was not vacant since Smt Geethadevi was holding the post. They would say that the 6<sup>th</sup> respondent being a retrenched GDS she was eligible for a transfer to Vallillapuzha which is a place nearer to her house. It has also come out that the 6<sup>th</sup> respondent was working as GDS at Omanur on a regular basis. Therefore, the following points are urged:

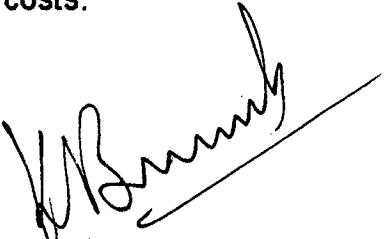
- i) The factor of provisional appointment cannot be deduced from Annexure A-1 to Annexure A-2;
- ii) the 6th respondent was transferred to Omanur as she had to be given an alternative appointment, as the Ex-BPM of Kizhuparamba had to be reinstated in this Tribunal's order on 22.7.2007. She was working in Kizhuparamba BO from 01.08.2001 and Omanur BO was at a distance of 30 Kms. The 6<sup>th</sup> respondent was eligible for a transfer to a nearby BO, as per DG's letter at Annexure R-4. The expected and proper course of action by the administration was to consider the request of the 6<sup>th</sup> respondent for transfer to Vallillapuzha and issue a notification to fill up the post at Vallillapuzha only after her request was considered by the 2<sup>nd</sup> respondent and suitable order issued. As such, the applicant who was selected after observing all formalities cannot be displaced by another employee without going through the best practices available in the rules.
- iii) The appointment to GDS is granted on the basis of a regular livelihood available to that person in the geological area mentioned.



Once the 6<sup>th</sup> respondent was ready to accept employment at Omanur it has to be presumed that her alternate source of livelihood was present in that location. That itself to be noted is that the applicants livelihood also substantially revolves around the area of Vallilapuzha. It has come out that she was ejected from Vallilapuzha without any notice and not even affording an opportunity of being heard. It is also seen that GDS Conduct Rules are not followed in this matter. Therefore, the following orders are issued:

- a) The applicant shall be retained at Vallilapuzha Post Office with immediate effect;
- b) the 6<sup>th</sup> respondent shall be transferred back to Omanur.

5. The O.A is allowed to the extent indicated above. There shall be no order as to costs.



DR K.B.SURESH  
JUDICIAL MEMBER



K NOORJEHAN  
ADMINISTRATIVE MEMBER

trs