

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.No.500/2008
Dated the 29th day of September, 2008.**

CORAM :

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

**K.S.Mayalekshmi
Postal Assistant,
Kayamkulam HO Kayamkulam. Applicant**

By Advocate Mr.CSG Nair

V/s.

- 1 **Union of India
represented by its Secretary,
Department of Posts,
Sanchar Bhavan, New Delhi**
- 2 **The Chief Postmaster General,
Trivandrum**
- 3 **The Postmaster General,
Central Region, Cochin-18.**
- 4 **The Superintendent of Post Offices,
Mavelikkara**
- 5 **The Post Master,
Kayamkulam H.O. Respondents**

By Advocate Mr.P.S.Biju ACGSC



This application having been heard on 29th September, 2008, the Tribunal on the same day delivered the following

(ORDER)

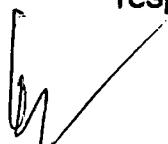
Hon'ble Dr.K B S Rajan, Judicial Member

The applicant is working as a Postal Assistant in Kayamkulam Head Office. Her husband Sri K.Radhakrishnan Nair is working as Branch Manager, State Bank of India, Danapady Branch at Haripad. He is entitled to Leave Travel Concession and the applicant and her spouse plan to visit Bahrain where their relatives are residing. The applicant, for the purpose wants to apply for Passport and since she is a government servant, a "No Objection Certificate:" from the department is a prerequisite. Accordingly, she preferred an application on 17.4.2008 in the prescribed format. However, the applicant was informed that "NOC" could not be given to her as disciplinary proceeding is pending against her.

2 The applicant has submitted a representation dated 17.6.2008 stating that the LTC of her husband would expire in October 2008. On 19.6.2008, the respondents have refused to grant NOC on the ground that disciplinary proceeding under Rule 16 of CCS (CCA) Rules is pending against her. It is against the said refusal order (Annexure A-2 read with A-9), the applicant has filed this OA.

3 The respondents have contested the OA but no counter has been filed.

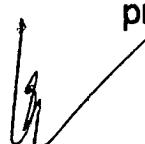
4 It has been stated at the time of hearing by the counsel for the respondents that according to the department, when penalty proceedings



are pending, NOC shall not be issued. Attention of the counsel was invited to OM dated 9.7.2002 of the Ministry of External Affairs (vide page-1137-38) of Swamy's Complete Manual – Establishment and Administration- 206 edition, as per which NOC may be refused only for charges of grave misconduct and in the normal circumstances, even NOC cannot be denied. Counsel on instruction submitted that the aforesaid OM dated 9.7.2002 has undergone an amendment in 2007 whereby NOC from the Administrative Department is essential.

5 The pending proceedings against the applicant relate to a minor omission in making some entries in the ledger vide Annexure A-4. The applicant is charged of negligence of duties only.

6 Issue of Passport and any prerequisite for the same cannot be denied to any citizen except for very justifiable reason since possession of a passport is a fundamental right. In the instant case, minor penalty proceedings could have by now been even completed since it was initiated as early as on 27.5.2008. It is not exactly known as to the reason for non finalisation of the same. The applicant's approaching the Tribunal against some transfer order and her having filed a case through this OA have been stated to be the reason for non finalisation of the disciplinary proceedings, on the ground that the matter is sub judice. We fail to understand how a challenge against the transfer order or challenge against non issue of passport can mean that the matter is sub judice with reference to disciplinary proceedings. As no time is now left and since the pending proceedings are minor in nature, interest of justice warrants that pending

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finalisation of the proceedings, the department shall issue NOC subject to there being no other impediment, to facilitate the applicant in getting her passport. As very limited time is available to the applicant, the respondents shall act forthwith in issuing necessary NOC so as to enable the applicant to apply for Passport and complete other formalities.

7 OA is accordingly allowed. No costs.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


K.B.S. RAJAN
JUDICIAL MEMBER

abp