

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.523/2000

Friday this the 7th day of July, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI G.RAMAKRISHNAN, MEMBER (A)

P.J.Sebastian,
Extra Departmental Messenger,
Peerumedu Sub Office,
Iddukki Division, residing at
Parappurath, Upputhara,
Idukki-685905.

..Applicant

(By Advocate Mr. M.R.Rajendran Nair)

vs.

1. Sub-Divisional Inspector,
Peerumedu Postal Sub-Division,
Peerumedu.
2. Superintendent of Post Offices,
Idukki Division, Thodupuzhaa.
3. The Regional Postmaster General, Central Region,
Ernakulam.
4. Chief Postmaster General, Kerala Circle,
Trivandrum.
5. Union of India represented by the
Secretary to Government of India,
Ministry of Communication, New Delhi.

..Respondents

(By Advocate Shri K.Shri Hari Rao, ACGSC)

The Application having been heard on 20.6.2000 the Tribunal
on 7.7.2000 delivered the following:

ORDER


HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant working as a Extra Departmental Messenger, Peerumedu Sub Office in Idukki Division applied for transfer as EDMC, Lonetree Branch Office in the same sub-division. The second respondent by Annexure A1 order dated 22.3.2000 rejected his request on the ground that there is no provision for transfer of ED Agents from one post

to another. His request to the first respondent was also turned down by Annexure A3 order dated 3.4.2000. A further request made by him to the third respondent was also turned down by the order dated 8.5.2000 on the same ground that an ED Agent is not entitled to seek transfer to another post. It is aggrieved by the rejection of his request for transfer and appointment that the applicant has filed this application seeking to have Annexures A1, A3 and A5 set aside and for a direction that he is entitled to be considered for appointment by transfer in preference to outsiders.

2. The respondents in their reply statement contend that the applicant is not entitled to seek transfer from the post of E.D.Messenger to that of EDMC as there is no provision for such transfer. It has further been contended that against the order of the Tribunal in O.A.45/98 and the order in O.A.968/99, the respondents have filed O.P.No.13109/2000 and the order in O.A.No.968/99 has been stayed. The respondents further contend that the applicant who is working in Peerumedu Sub Office which is an independent recruiting unit, cannot seek transfer to another recruiting unit.

3. The applicant has filed a rejoinder in which it has been contended that the contention that the applicant cannot seek a transfer from Peerumedu Sub Office to Lonetree Branch



Office which is in the same sub division, is unsustainable in view of the clarification contained in the D.G., Posts letter No.17-60/95-ED & TRG dated 28.8.96 on the subject of transfer of ED officials from one post to another clarification on certain points of doubt.

4. We have heard the learned counsel on either side and have perused the materials placed on record.

5. The impugned orders Annexures A1, A3 and A5 cannot be sustained for the reason that this Tribunal has in its order in O.A.45/98 held that a working ED Agent satisfying eligibility criteria and suitability can be appointed to another ED post .This Bench has considered the question whether a working ED Agent is entitled to be appointed on another ED post falling vacant in the same office or in the same station, if he is eligible and suitable for holding the post without being subjected to a competition alongwith outsiders in O.A.45/98. Rejecting the contentions raised by the Department that ED Agents are not entitled to be appointed by transfer unless the request for transfer is by an ED Agent who has been redeployed at a distant place as a result of surplusage was rejected by the Bench and it was held that a working ED Agent if he is eligible and suitable to be appointed to another ED post falling vacant in the same place or in the same station, he can be appointed without being subjected to a competition alongwith

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outsiders. That the respondent-Department has filed an O.P. before the High Court against the ruling in the order of the Tribunal in O.A.No.45/98 and O.A.958/99 and that the High Court has stayed the order as an interim measure is no reason to take a different view. Therefore the impugned orders Annexure A1, A3 and A5 rejecting the claim of the applicant for appointment by transfer on the post of EDMC, Lonetree cannot be sustained and are liable to be set aside. The respondents have raised a contention that the applicant who is working as an Extra Departmental Messenger in Peerumedu Sub Office which is an independent recruitment unit is not entitled to seek transfer to the post of EDMC, Lonetree which is in the Sub Division Peerumedu also is without merit in view of the clarification given in the DG's letter No.17-60/95-ED & TRG dated 28.8.96 to the query No.5 which reads as follows:

"5)Whether EDAs of HOs/LSG sub offices can be given transfer against the post of ED agents falling vacant in a Sub Division and vice versa. It may also be clarified whether an ED Agent other than ED SPM/SPM can apply for the post of an EDBPM/SPM, falling vacant outside his recruiting unit (Sub division) but within the recruiting unit(i.e.division).

Yes. So long as the ED Agents seeking transfer from a Head Office or LSG Sub Division against a post falling vacant in a Sub Division and vice versa are borne on the gradation list of the same division and the ED Agents seeking transfer to the post of EDBPM/EDSPM within the same division fulfill the eligibility criteria laid down for appointment as EDBPM/EDSPM. While doing so, the provisions against item No.3 above may be kept in view."

Therefore the applicant who is working as Extra Departmental


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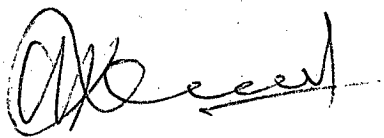
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.5.

Messenger ,Peerumedu Sub Office is entitled to seek a transfer as EDMC, Lonetree in Peerumedu Sub Division.

6. In the result the application is allowed. The impugned orders are set aside and the respondents are directed to consider the request of the applicant for transfer and appointment to the post of EDMC, Lonetree alongwith requests if any of similar working ED Agents before filling up of the vacancy. It is further directed that only if the applicant or other ED Agents who have similarly applied for transfer are found to be ineligible and unsuitable, the post of EDMC, Lonetree should be filled by recruitment from open market.No order as to costs.


(G.RAMAKRISHNAN)
MEMBER (A)


(A.V.HARIDASAN)
VICE CHAIRMAN

/njjj/

List of annexures referred to:

Annexure.A1:True copy of the Order No.B7/EDAs/GI dated 22.3.2000 issued by the 2nd respondent.

Annexure.A3:True copy of the Order No.BO/121/Deg. dated 3.4.2000 issued by the 1st respondent.

Annexure.A5:True copy of the Order No.B7/EDAs/GI dated 8.5.2000 issued by the 2nd respondent.

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