

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

**Original Application No. 542 of 2013**

FRIDAY, this the 02<sup>nd</sup> day of August, 2013

**CORAM:**

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER  
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

K.R. Purushothaman,  
S/o. Raman Nambisan, Aged 58 years,  
Cash Overseer, Chavakkad MDG,  
Post Office Chavakkad : 60 506,  
Residing at Kodalip Pushpa Ram, Pazhummana,  
Chemmantha, Kecheri : 680 501

... Applicant.

(By Advocate Mr. V. Sajith Kumar)

v e r s u s

1. Union of India, represented by  
The Secretary to Government,  
Department of Posts,  
Ministry of Communications,  
Government of India, New Delhi : 110 001
2. The Chief Postmaster General,  
Kerala Circle, Trivandrum : 695 001
3. The Senior Superintendent of Post Offices,  
Thrissur Postal Division, Thrissur : 680 001
4. The Sub Postmaster, MDG,  
Department of Posts, Chavakkad, Trissur. ... Respondents.

(By Advocate Mr. M.K. Aboobacker, ACGSC)

This application having been heard on 25.07.2013, the Tribunal on  
02-08-13 delivered the following:

**ORDER**

HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant was working as Cash Overseer at Chavakkad MDG from  
29.05.2009 onwards. Unhappy over the instruction to submit monthly T.A.



bills instead of reimbursement on the basis of the money receipts signed by the auto drivers, the applicant had vide Annexure A-4 letter dated 20.05.2013 requested the Sub Postmaster to give written orders since he is executing a risky job even without reimbursement of expenses incurred by him in his official work. The response to the letter was the impugned order dated 24.05.2013 transferring him as Postman in the same Post Office. Aggrieved, he has filed this O.A. for the following reliefs:

- (i) To quash Annexure A-1;
- (ii) To direct the respondents to permit the applicant to continue in the post of Cash Overseer at Chavakkad MDG till his retirement;
- (iii) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant; and
- (iv) Grant the cost of this Original Application.

2. The applicant contended that Annexure A-1 order transferring him from the selection grade norm based post of Cash Overseer to a lower category post of Postman is highly arbitrary and illegal. He has got 34 years of blemishless service as a regular employee and another 05 years as GDS. It is unfair to transfer him from a supervisory post to a field post in the last lap of 18 months of his service without justifiable reason. He was performing the function of Cash Overseer without any complaint till March, 2013. For the safe transport of money in the range of 02 to 05 crores every month to various post offices, travel by auto rickshaw and bus fare were permitted. Expenses incurred were reimbursed every day. On the instructions of the new Superintendent, he was paid only Rs. 1000/- as TA advance and he was required to submit the TA bills. The TA bills from April onwards amounting to Rs. 15000/- remained unpaid. He has no means to pay auto/taxi charges



without timely reimbursement. In case of written orders, he could transfer the money even without availing taxi/auto. Therefore, he requested for written orders for using public transport while carrying huge amounts, which resulted in the impugned transfer order.

3. In the reply statement filed on behalf of the respondents 1 to 4, it was submitted that the post of Cash Overseer is neither a supervisory post nor a promotion post from the cadre of Postman. He has to submit T.A claim on monthly basis as required by SR Rule No. 64, which he was not ready to follow. Hence he submitted Annexure A-4 letter. The duty of Cash Overseer is to convey cash from one post office to another. As per the existing order, the line limit of Cash Overseer is Rs. 50000/-. Above that limit, police protection to carry the money is required. The applicant was conveying cash above the prescribed limit on several occasions at his own risk. Only upon consideration of Annexure A-4 letter, the applicant was relieved from the post of Cash Overseer. By issuing Annexure A-1 order, he has not sustained any loss of pay or loss of seniority or reversion from the cadre of Postman. He was working in the same post office. On receipt of Annexure A-1 order, he took leave for 30 days and extended leave thereafter. He has not taken charge as Postman pursuant to Annexure A-1 transfer order so far. The payments of fare for auto rickshaws and other vehicles done by applicant were highly irregular in the absence of names and addresses of payees therein. The T.A bills submitted by him are not disallowed so far. Respondent No.3 is responsible for regulating all types of claims including travelling allowance of the applicant, in the division. He is the competent authority to post and transfer the Cash Overseers and Postmen working under

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his division. Since no allegations of mala fides or infraction of any statutory provisions are alleged, the claim of the applicant is unsustainable in the eyes of law as held in the case of *Union of India and Others vs. S.L. Abbas*, 1993 (4) SCC 357. No Government servant or employee of a public undertaking has any legal right to be posted for ever at any one particular place or place of his choice, since transfer is an incidence of service, as held by the Hon'ble Supreme Court in *State of U.P. and Others vs. Siya Ram and Another*, (2004) 7 SCC 405. Unless an order of transfer is shown to be an outcome of mala fides or in violation of statutory provisions, the Courts/Tribunals normally cannot interfere with transfer orders.

4. In the rejoinder statement filed by the applicant, it was submitted that the money receipt was the method being followed at Chavakkad post office for the last 03 decades. In Thrissur Head Post Office at the ground floor of the 3<sup>rd</sup> respondent's office, the payments to the Cash Overseers are through money receipts till now. The applicant is willing to provide the names and addresses of the auto-rickshaw drivers, if needed. He is ready to accept the change in procedure. He is entitled to TA advance amounting to 75% of the estimated expenses as per the rules. Most of the days, the applicant had to carry lacs of rupees; the applicant is at great risk to carry the money more than permissible limit without written orders. There were oral instructions to use public transport. A written endorsement of the supervisory staff will protect the applicant in case of any untoward happening. The applicant was getting cash allowance 60/- on appointment to the post of Cash Overseer. Postal Divisions in Kerala are maintaining separate divisional gradation list for Overseer cadre. In evidence, Annexure A-6 seniority list pertaining to

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Pathanamthitta Division is produced. Majority of Postal Divisions in Kerala are permitting daily encashment of the expenses of Cash Overseers. It is for the first time that submission of TA bills is insisted upon. The applicant is willing to carry out all the responsibilities as per the rules. The written request in Annexure A-4 is with regard to entrustment of amount in excess of permissible limit and on insistence to use public transport. As a matter of fact, conveyance in auto-rickshaw was permitted by the Postmaster concerned to facilitate effective distribution at various points in time.

5. We have heard Mr. V. Sajith Kumar, learned counsel for the applicant and Mr. M.K. Aboobacker, learned ACGSC appearing for the respondents and perused the records.

6. The respondents have stated that the post of Cash Overseer is not a promotion post as claimed by the applicant. Rule 281 of the Posts and Telegraphs Manual, Volume IV, reads as under:

"281. Appointment to the post of branch postmasters, overseers, overseer postmen, sorting or reader postmen and head postmen should be made by promotion of postmen and village postmen. Such appointments will normally be made in order of seniority but the appointing authority may, in his discretion pass over any senior official whom he does not consider fit for such appointment. A single gradation list should be maintained for the holders of all these posts which should be made interchangeable."

(emphasis supplied)

As per the Rule 281 above, the appointment to the post of Overseer should be made by promotion of the postman/village postman. The respondents have no case that the cash overseer is not falling within the purview of Rules 281 above. Hence there is an element of demotion, as



claimed by the applicant, in his transfer from the post of Overseer, entailing a loss of Rs. 60/- as conveyance allowance per month.

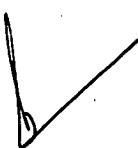
7. The contention of the applicant that majority of the Postal Divisions in Kerala is permitting daily reimbursement of the expenses of Cash Overseer and that in Thrissur, the payment to the Cash Overseer is through money receipts till now are not refuted by the respondents.

8. The respondents have very carefully stated that the travelling allowance bills submitted by the applicant are not disallowed so far. But they have not stated that the aforesaid bills are passed and payment made to the applicant speedily. The claim of the applicant that he had to spend about Rs. 15000/- from his pocket in 02 months and that he was given Rs. 1000/- as TA advance instead 75% of estimated expenses as per rules, has not elicited any response from the respondents.

9. The respondents claim that the applicant was transferred on considering his request vide Annexure A-4, which is reproduced as under:

"You have brought to my notice that as per the circular issued from the Divisional Office, cash conveyance allowance will be paid only through T.A bill from 1<sup>st</sup> April, 2013. I have not been sanctioned with the TA bill for the month of April inspite of timely submission and no TA advance has been sanctioned so far. For the last two months, I have received only Rs. 1000/- towards advance. Further, you have orally informed me that there are further changes as regards cash conveyance allowances from 18.05.2013. I humbly inform you that hereafter without written orders, I may not be compelled to do such a risky job."

There is not even a hint of request for transfer. All that the applicant sought was that without written orders he may not be compelled to do such a risky



job. The risky job that he was performing, was carrying huge amounts over and above the limit of Rs. 50000/- by public transport. Travel by auto-rickshaw is permitted by the Postmaster concerned. The written request at Annexure A-4 was in regard to entrustment of amount in excess of permissible limit and on insistence to use public transport, which is a great risk to the applicant. What he sought was a written order instead he was given a transfer order, apparently for no reason. There was no complaint about the applicant in regard to his performance as Cash Overseer. The post of Cash Overseer from which he was transferred is still vacant. Entrustment of lacs of rupees for distribution at various post offices was not at the choice of the applicant.

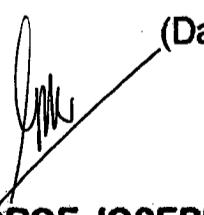
10. It is true that the applicant has no legal right to be posted as Overseer for ever. Transfer is an incidence of service; but generally it is ordered in public interest. It is also true that normally the Courts/Tribunals do not interfere with the transfer orders. But in the instant case, no public interest is evident in the transfer of the applicant from the post of Cash Overseer to the post of Postman. The respondents have not averred that the transfer of the applicant from the post of Cash Overseer to the post of Postman is a bonafide transfer done in public interest. They are unable to point out any administrative exigency in passing the impugned transfer order. The power and authority of the respondents over their staff are to be exercised in public interest in a just and fair manner. If payment on the basis of money receipts signed by auto drivers without name and address is not proper or legal, the respondents have the duty and responsibility and the power and authority to take corrective action. If such payment is widely prevalent and long

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established, it should be dealt with after due consideration of all relevant facts and consultation with affected parties, by way of policy decision, which applies to all Postal Divisions at least in Kerala. It is illegal and irresponsible on the part of the respondents to entrust large amounts with Cash Overseer without adequate security and without appropriate mode of transport. The impugned transfer order smacks of arbitrariness and mala fides. The problem of risk faced by the applicant in travelling in public transport with money beyond the prescribed limit is not addressed at all nor his blemishless service and Rule 281 (ibid) considered. The applicant is not sanctioned adequate advance as per rules. Ulterior motives can be attributed to the delay in settling his T.A. bills. Finally, he is transferred out on the flimsy ground of his letter at Annexure A-4. In the facts and circumstances of the instant case, malafides on the part of the respondents is evident although the applicant has not made any allegation of mala fides as such. In the result, the O.A. is liable to be allowed. Accordingly it is ordered as under.

11. The O.A. is allowed. Annexure A-1 order dated 24.05.2013 is quashed. The respondents are directed to permit the applicant to continue in the post of Cash Overseer at Chavakkad MDG. Appropriate orders in this regard should be issued as early as possible, at any rate, within 03 weeks from the date of receipt of a copy of this order. No costs.

(Dated, the 02<sup>nd</sup> August, 2013)

  
**(K. GEORGE JOSEPH)**  
**ADMINISTRATIVE MEMBER**

cvr.

  
**(Dr. K B S RAJAN)**  
**JUDICIAL MEMBER**