

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.567/12

Friday,..... this the 14th day of June 2013

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

P.V.Sudheer,
S/o.P.Velayudhan,
Postal Assistant, Ponani HO,
(under orders of transfer), Tirur Division.
Residing at Rashmi House, Kuttipala,
Vattamkulam PO, Malappuram District.

...Applicant

(By Advocate Mr. Shafik.M.A.)

Versus

1. Union of India represented by Chief Postmaster General, Kerala Circle, Trivandrum – 695 033.
2. The Postmaster General, Northern Division, Calicut – 673 011.
3. The Superintendent of Post Offices, Tirur Division, Tirur – 676 104. ...Respondents

(By Advocate Mr. Pradeep Krishna)

This application having been heard on 11th June 2013 this Tribunal on 14th June 2013 delivered the following :-

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant while working as SPM, Ponnaniagaram made a request on 21-04-2011 for transfer to Ponnani HO with a view to enabling him to procure business to the respondents in the Postal Life Insurance. The same was acceded to and the applicant was posted to the HO, Ponnani vide B1/Transfer dated 06-06-2011 and the applicant joined the post on 06-07-2011. While so posting as PA in Ponnani HO, the applicant

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was directed to hold the additional charge of Asst. Post Master, Ponnani HO. This additional work load compelled the applicant to work overtime every day and the applicant had been claiming Overtime Allowance also during this period. Procuring the PLI policy is stated to be by door to door canvassing during reasonable time on any day. Since the applicant's duty period every day extended upto 19.30 hrs, he could not pay sufficient attention towards procurement of the said PLI. The respondents, vide the impugned order dated 18-05-2012 transferred the applicant back to Ponnaniagaram as SPM, i.e. his original post. Request for withdrawing of the said order of transfer was rejected vide Annexure A-4.

2. Hence, this OA, seeking the following reliefs :-

1. To call for the records leading to Annexure A-1 to A-6 and to quash A-1, A-4 and A-6 and to permit him to continue as Postal Assistant Ponani HO.
2. To declare that the applicant is not liable to be transferred from Ponani HO before he completes his tenure.
3. To grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just, in the circumstances of the case.
4. To award costs of this proceeding to the applicant.

3. Respondents have resisted the OA and contended that transfer being one of incidence of service, would not normally be interfered by the Tribunal and that the individual should first joined the new place of posting and then only could, after exhausting administrative remedies, challenge the order of transfer.. In this regard, they have relied upon the judgment in the case of **S.C. Saxena vs Union of India vs Union of India (2006) 9**

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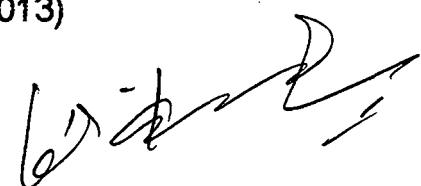
4. Rejoinder and additional reply have also been filed.
5. Counsel for the applicant argued that it was because of extra workload entrusted upon the applicant that he could not procure better business in the PLI. That he had been burdened heavy work is evidenced by the fact that every day he was to perform overtime which is an admitted fact. Had the same been not there, he would have concentrated upon the PLI work and would have procured better business.
6. Counsel for the respondents submitted that the applicant applied for transfer from Ponnaniagaram to Ponnani HO purely for the purpose of enhancing the PLI business in which he had miserably failed and hence he had been posted back.
7. Arguments were heard and documents perused. The posting is within the same station. It is a change in the table. The applicant applied for his posting to Ponnani HO for a particular purpose. On his joining the said post, he was entrusted with additional responsibility, which according to him came in his way of procuring the PLI business. This situation would have been there right from the beginning. In that event, the applicant could have easily approached the authorities indicating the difficulties he had been facing in procuring the PLI business. That was not done. In fact, his request for transfer to Ponnani HO was stating that "there is more business scope at Ponani and surrounding areas, taking into account my personal relationships.". His personal relationships could have enabled him to visit

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such person even if there be some delay in the day time. No attempt seemed to have been done. His transfer to Ponnani HO seems to be the main intention and procurement of better PLI seems to be a convenient tools for his transfer.

8. There is, thus, no merit in the case and accordingly, the OA is dismissed. No cost.

(Dated this the 14th day of June 2013)



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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