

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No.574/2011

Thursday, this the 20th day of October, 2011.

CORAM

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

V.Mohanam,
S/o Venuachary,
Working as Gramin Dak Sevak Mail Deliverer,
Nellikunnam.P.O. Residing at Vengottuvilayil
House, Pooyappally.P.O., Kottarakkara-691 537.Applicant

(By Advocate MrP.C.Sebastian)

v.

1. The Senior Superintendent of Post Offices,
Kollam Division,
Kollam-691 001.
2. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. The Union of India represented by
its Secretary, Ministry of Communications &
I.T.Department of Posts,
New Delhi-110 001.Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC)

This application having been finally heard on 10.10.2011, the Tribunal on 20.10.2011 delivered the following:

ORDER

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

The applicant was initially appointed as GDS Mail Packer at Nilmamel Post Office on permanent basis and on his request he has been transferred to Nillikunnam as GDS MD, vide Annexure A-1 order dated 12-10-2006. The TRCA for the latter post is lower than that of the former post. The applicant at the time of his joining the post of GDS MD



at Nellikkunnam was drawing TRCA 1745 which stands reduced to Rs 1375. The claim of the applicant is that even where the transfer is from the post carrying higher TRCA to the one carrying lower TRCA, when the two posts fall within the same recruiting zone, the TRCA drawn at the time of transfer, subject to the maximum of the TRCA in the transferred post, shall be protected.

2. Respondents have contested the OA. According to them, the transfer being one of transfer on request, the applicant shall be placed only in the minimum in the TRCA applicable to the post of GDSMD at Nellikkunnam.

3. Counsel for the applicant submitted that there is no question of depletion from the extent of TRCA already drawn, in view of the Full Bench Judgment in OA No. 270 of 2006. In addition, the counsel relied upon another decision of this Tribunal dated 01-04-2011 in OA Nos 261 of 2010 and 836 of 2010.

4. Counsel for the respondent submitted that when request transfer is acceded to the filling up of the transferred post amounts to a new recruitment and hence minimum TRCA in the TRCA scale is justified.

5. Arguments were heard and documents perused. The Full Bench of this Tribunal in OA 270 of 2006 considered the extent of TRCA admissible under various transfer contingencies and ultimately held as

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under:-

49. Now, the entire situation would be summarised and references duly answered as under:

(a) As per the rules themselves, in so far as transfer within recruitment unit and in the same post with identical TRCA, there shall be no depletion in the quantum of TRCA drawn by the transferred individual.

(b) In so far as transfer from one post to the same Post with Diff. TRCA and within the Same Recruitment Unit, administrative instructions provide for protection of the same vide order dated 11th October, 2004, subject only to the maximum of the TRCA in the transferred unit (i.e. maximum in the lower TRCA).

(c) In so far as transfer from one post to a Different Post but with same TRCA and within the same Recruitment Unit, as in the case of (a) above, protection of TRCA is admissible.

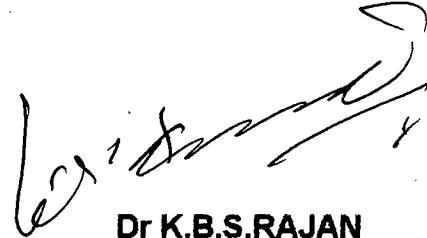
(d) In respect of transfer from one post to another within the same recruitment unit but with different TRCA (i.e. from higher to lower), pay protection on the same lines as in respect of (b) above would be available.

(e) In so far as transfer from a post carrying lower TRCA to the same category or another category, but carrying higher TRCA, the very transfer itself is not permissible as held by the High Court in the case of Senior Superintendent of Post Offices vs. Raji Mol, 2004 (1) KLT 183. Such induction should be as a fresh recruitment. For, in so far as appointment to the post of GDS is concerned, the practice is that it is a sort of local recruitment with certain conditions of being in a position to arrange for some accommodation to run the office and with certain income from other sources and if an individual from one recruitment unit to another is shifted his move would result in a vacancy in his parent Recruitment Unit and the beneficiary of that vacancy would be only a local person of that area and not any one who is in the other recruitment unit. Thus, when one individual seeks transfer from one post to another (in the same category or other category) from one Recruitment Unit to another, he has to compete with others who apply for the same and in case of selection, he shall have to be treated as a fresh hand and the price he pays for the same would be to lose protection of his TRCA."



6. The case of the applicant falls under (b) above. It is made clear that there is no distinction between transfer on request or otherwise as all such transfers are considered as transfer in public interest vide order dated 11.10.2004.

7. In view of the above, the OA is **allowed**. It is declared that the applicant is entitled to transfer grant as he was drawing at the post office at Nilmamel and his case shall be dealt with in accordance with para 49(b) of the Full Bench order extracted above. Respondents shall reschedule the TRCA accordingly and arrears of TRCA paid to the individual within a period of eight weeks from the date of communication of this order. No costs.



Dr K.B.S.RAJAN
JUDICIAL MEMBER

trs