CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos.586/07 & 587/07

Monday this the 5 th day of November, 2007.

CORAM:

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

O.A.586/07 :

A.G.Geetha, W/o P.N.Jagadeesan,
Assistant, Regional Passport Office, Cochin,
Residing at 'Ponoth House' Ponoh Road, Kaloor,
Cochin-682 017. Applicant

(By Advocate Shri Shafik M.A.)

Vs.

1. Union of India, represented by
Foreign Secretary,
Ministry of External Affairs,
Government of India,
New Delhi.

2. The Chief Passport Officer & Joint Secretary (CPV)
Ministry of External Affairs, New Delhi.

3. The Administrative Officer (PV.IV),
Ministry of External Affairs, New Delhi. Respondents

(By Advocate Shri.P.S.Biju, ACGSC)

O.A.587/07 :

K.Susheela Devi,
W/o Late B.Mohandas,
Assistant, Regional Passport Office, Cochin,
Residing at 'Balavihar' East Kadungalloor,
Alwaye-2. Applicant

(By Advocate Shri Shafik M.A.)

Vs.

1. Union of India, represented by Foreign Secretary,
Ministry of External Affairs,
Government of India,
New Delhi.

2. The Chief Passport Officer & Joint Secretary (CPV)

Ministry of External Affairs, New Delhi.

3. The Administrative Officer (PV.IV),
Ministry of External Affairs, New Delhi. Respondents

(By Advocate Shri.P.S.Biju, ACGSC)

The applications having been heard on 5.11.2007, the Tribunal on the same day delivered the following:

O R D ER

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

As the issue involved in these two O.As.are one and the same, these two O.As are disposed of by this common order.

2. The applicants joined the respondents organisation as Casual labourers in early 1970s and they were regularised initially from 1985. It was later on in May 2006, the date of their regularisation as LDC was advanced from 1985 to 15.5.1978. However, this advancement of date of regularisation was restricted to certain limited purposes only, and it did not affect the seniority in the grade of the applicants as LDC from 1985.

3. Initially, it is stated that the LDCs and UDCs were not to be transferred at all and vide A-5. The spirit of LDCs and UDCs not to be posted out has been retained in the latest guidelines and it is only in exceptional circumstances, transfer of UDCs & LDCs may take place, within the zone, provided, they are in public interest. The applicants have been, by the impugned A-1order, transferred from Cochin to Bangalore. When the same was agitated by the applicants, a stay was granted. In the counter statement the respondents have stated that reason to shift the applicants was that, they were the seniormost in station seniority according to the Seniority List. In spite of the contention that the applicants' request for posting at Malappuram has not been properly considered,

the respondents have replied that, there is no vacancy at Malappuram.

4. In the rejoinder, the applicants have averred that:

> "As per the SIU norms, a total of 87 officers (9 officers, 65 Dealing Hands & 13 Group D is required at the Malappuram Office. In fact, of the Staff Strength of 9 Superintendents allotted to Malappuram Office, only 3 persons are available at present. 2 Superintendents transferred from Ernakulam office is yet to join Malappurqam. Out of cadre strength of 65 dealing hands comprising of LDC, UDC and Assistants allocated to Malappuram office, at present only 42 Group C officials are working in the said office. There is still a deficiency of 23 Group C officials including Assistants in Malappuram passport Office. None of those who are transferred, including 2 UDCs from the Ernakulam office., has joined the said Office till date."

5. No additional reply has been filed by the respondents rebutting the above and as the averments have been made citing certain specific references of the respondents, it is presumed that the details given therein are correct.

6. Counsel for the applicants submits that the applicant's are in their mid of fifties and they are depending upon the respective relatives who are available in Kerala. The posting at this juncture to Bangalore is inconvenient to them apart from the fact that the transfer order is violative of provisions and norms. Even if Station seniority is adopted, the counsel for applicants argues, that, since Annexure R-1 order specifies that the station seniority does not change from 1985 onwards, the same norms should apply not only for promotion but also for working on the station seniority. If that is so, there is no chance at all for the applicants to be disturbed, as they cannot be held seniors.

7. Counsel for the respondents submitted that in so far as the vacancies at Malapuram are concerned, the same are matters on record.

8. Arguments were heard and documents perused. The spirit of rotational transfer policy is manifest. As far as possible, transfers could be made to the minimum and in so far as the persons holding subordinate posts, transfer is not to be made. A perusal of documents reveals that, except that rotational transfer is permissible, no administrative exigency is found in the transfer of the applicants. Further, there is substance in the contention of the applicant's that the seniority of the applicant is to be reckoned from 1985 which will make them junior in station seniority as well. In this regard, attention is invited to A-3 of the O.As. Again, if vacancies at Malappuram are available it will be in the interests of justice that the applicants are posted within the same State. Shifting out of a State to another, though such shifting may be within the Zone, would cause inconvenience and if Malappuram could accommodate, that should first be considered. taking into account all the other factors, it is for the respondents to review the entire case, taking into account the following points:

(a) That the seniority of the applicants shall reckon form 1985,

b) The applicants are in the mid of 50s and after two years or so they would become within the exempted category of persons

c) That domestic situations as contained in their O.A.

d) The actual vacancy at Malappuram.

9. Once the vacancies at Malappuram are ascertained, the respondents shall consider the posting of the applicants at Malappuram itself which would congenial to the working conditions of the applicants. And, till a decision in this regard is made, the applicants shall not be disturbed from their respective posts.

10. O.A. is disposed of . No costs.

Dated the 5 th November, 2007.

Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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