

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.607/03

Wednesday this the 8th day of October 2003

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Joy Joseph
S/o.Joseph
Gramin Dak Sevak Branch Postmaster,
Kalamboor P.O.,
Aluva Division.

Applicant

(By Advocate Mr.P.C.Sebastian)

Versus

1. The Senior Superintendent of Post Offices,
Aluva Division, Aluva.
2. The Postmaster General
Central Region, Kochi - 682 016.
3. The Director General
Department of Posts,
Dak Bhavan, New Delhi.
4. The Union of India, represented by
Secretary to Government of India,
Ministry of Communications,
Department of Posts,
New Delhi.

Respondents

(By Advocate Mr.C.B.Sreekumar,ACGSC)

This application having been heard on 8th October 2003 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant a permanent resident of Maneed near
Muvattupuzha was initially appointed as Gramin Dak Sevak Sub
Postmaster at Maneed Post Office on adhoc basis. The appointment
was made regular by an order dated 18.3.1988. While the regular
incumbent was ordered to be reinstated, the applicant was
retrenched and accomodated on the post of GDS BPM, Kalamboor by
Annexure A-1 order dated 3.1.1989. Coming to know that a vacancy
would arise in the office of GDS SPM, Maneed in June 2003, the

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applicant submitted Annexure A-3 representation dated 15.11.02 requesting for a transfer. Again the applicant on 10.5.03 submitted a representation to the Senior Superintendent of Post Offices reiterating his request for transfer to the post of GDS SPM, Maneed stating that he fulfils the eligibility criteria for appointment on that post. Finding that the 1st respondent has issued Annexure A-5 notification for making direct recruitment to the post of GDS SPM Maneed, the applicant has filed this application seeking to set aside Annexure A-5 notification and for a declaration that he is entitled to be considered for appointment by transfer as GDS SPM Maneed in terms of the rules and the ruling of this Tribunal in O.A.45/98 and for a direction to the respondent to consider applicant's request for appointment by transfer as GDS SPM Maneed in preference to outsiders.

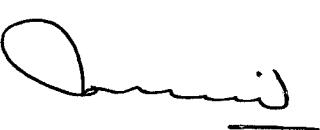
2. The respondents resist the application by contending that since Note ii(IV) of under Rule 3, GDS (Conduct & Employment) Rules, 2001 specifically states that the GDS will not have any transfer liability and the Ministry of Communications has issued Annexure R-1 letter dated 27.6.03 stating that application from GDS for transfer should not be entertained, the applicant is not entitled to the reliefs claimed. They further contend that as the applicant is presently holding the post of GDS BPM which is lower TRCA in comparison to the post of GDS SPM, the claim is not sustainable.

3. We have gone through the pleadings and materials placed on record. The case of the applicant that he is eligible and qualified to be appointed as GDS SPM has not been disputed. In fact, it is evident from the pleadings that the applicant was

initially appointed as GDS SPM which itself is proof of the fact that the applicant satisfies the eligibility criteria for appointment to the post of GDS BPM. The fact that the GDS (Conduct & Employment) Rules, 2001 stipulates that the GDS have no transfer liability, is not a reason to refuse a privilege of transfer to working ED Agents in terms of the DG (Posts) letter dated 12.9.88 which permits appointment of working E.D.Agents to another post if he/she is willing and eligible for such transfer. The pre-existing service conditions of the EDAs who were in service prior to the commencement of GDS (Conduct & Employment) Rules, 2001 have not been abrogated by the rules. On the contrary they have been protected. Further what the applicant seeking is a privilege of transfer in terms of the DG (Posts) letter dated 12.9.1988 and not enforcement of a transfer liability. The contention that the applicant who is working as GDS BPM which carries a lower scale cannot be considered for the post of GDS SPM is also untenable because the applicant satisfies the eligibility criteria for the post of GDS SPM and there is no prohibition in granting such transfer.

4. In the light of what is stated above the contention of the respondents are rejected and the application is allowed. Annexure A-5 is set aside and the respondents are directed to consider the request of the applicant along with the request of similar GDS if any already received and that if only the applicant or other GDAs if any who have applied are found unsuitable for appointment as GDS SPM Maneed, resort shall be made to recruit from open market.

(Dated the 8th day of October 2003)


T.N.T.NAYAR
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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