

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 607 of 2008

Thursday, this the 6th day of August, 2009

CORAM:

Hon'ble Mr. George Paracken, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

K.V. Gopalakrishnan, S/o. Vellappan Chetty,
aged 56 years, Gramin Dak Sevak Mail Deliverer,
Tholpetty Branch Post Office, Wayanad, residing
permanently at Kavyanjali, Edakode, Baveli P.O.,
Kattikkulam Via, Vayanad, Pin 670646.

Applicant

(By Advocate – Mr. M.R. Hariraj)

V e r s u s

1. Union of India, represented by the Secretary to Government of India, Department of Posts, Ministry of Communication, New Delhi.
2. The Chief Post Master General, Kerala Circle, Trivandrum.
3. The Superintendent of Post Offices, Thalassery Division, Thalassery.
4. The Sub Divisional Inspector of Post Offices, Manathavady Sub Division, Manathavady.
5. Shafeeq, GDS Mail Deliverer, Baveli P.O, Kattikkulam Via, Wayanad.

Respondents

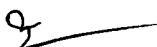
(By Advocate – Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 06.08.2009, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. George Paracken, Judicial Member -


The applicant is aggrieved by the Annexure A-1 order dated 19.11.2007 issued by the 4th respondent informing him that the Post Master General, Northern Region, Calicut has not recommended his case for



transfer. He is also aggrieved by the Annexure A-2 letter dated 12.1.2008 issued to him by the fourth respondent, namely, the Sub Divisional Inspector of Post Offices, Mananthavdy (Sub) Division, Mananthavdy, conveying the decision of office of third respondent, namely, the Superintendent of Post Offices, Thalassery Division, Thalassery that his request of transfer cannot be considered as he had already availed himself of one transfer from Payyamabally B.O. to Tholpetty B.O.

2. The brief facts of the case are that the applicant commenced his service as an EDDA, Payyampilly. He sought a request transfer as GDSMD Tholppetti on 13.10.2001. Thereafter, when the vacancy of GDSMD has arisen at Baveli, he made the Annexure A-4 representation dated 13.8.2007 to transfer him there as it would help him to look after his family. According to him his mother was earlier under the treatment of Amritha Hospital and on their advice she is still undergoing treatment at St. Joseph Hospital in Mananthavady and his wife is a patient suffering from Uterus problems undergoing treatment of the Civil Surgeon of the Government Hospital, Mananthavady. Since no reply was received from the 3rd respondent, he made the Annexure A-5 representation dated 11.12.2007 to the 2nd respondent, namely, Chief Post Master General, Kerala Circle, Trivandrum. The impugned Annexure A-1 letter dated 19.11.2007 was issued to him by the 4th respondent, namely Sub Divisional Inspector of Post Offices, Mananthavady Sub Division, Mananthavady stating that his request for transfer has not been recommended by the Post Master General, Northern Region, Calicut. Thereafter, the 4th respondent issued again the impugned Annexure A-2 letter to him stating that his request for transfer cannot be considered because he had already availed of transfer from Payyamabally B.O. to Tholpetty B.O.

3. The learned counsel for the applicant has produced Annexure A-3 letter dated 17.7.2006 issued by the Ministry of Communications & IT, Department of Posts governing the limited transfer facility to GDS. Our attention was invited to sub clause (i) of paragraph 3 according to which



GDS is normally eligible for only one transfer during the entire career. According to him, by implication, in exceptional circumstances more than one transfers can be allowed by the competent authority. He has also drawn our attention to paragraph 4 of the said letter according to which power of transfer will vest with the Heads of Circles who will decide each and every individual cases on merit keeping in view of the aforementioned criteria and standard of public interest. He has, therefore, argued that the impugned orders are illegal and arbitrary in as much as the right for consideration has been denied to him.

4. Learned counsel for the respondents has argued that the competent authority is flooded with representations from GDSs from various post offices and most of them are not covered by the criteria as prescribed in Annexure A-3 letter dated 17.7.2006. Therefore, she has submitted that Chief Post Master General, Kerala Circle, Trivandrum has decided vide Annexure R-1 letter dated 8.11.2006, that all applications for transfer of the GDSs shall be routed through the concerned RO and only those applications which fulfill the conditions prescribed in the aforesaid Annexure A-3 letter dated 17.7.2006, should be forwarded to the office of the CPMG, Kerala Circle, Trivandrum.

5. We have heard the learned counsel for the applicant Mr. P.A. Kumaran for Mr. M.R. Hariraj and Mrs. Jisha for Mr. TPM Ibrahim Khan, SCGSC, learned counsel for respondents. It is well settled position of law that the right of consideration is a fundamental right and the consideration has to be made by the competent authority. No employee can be denied such a right of consideration. When the Government of India, Ministry of Communications & IT, Department of Posts, vide Annexure A-3 letter dated 17.7.2006, has already made the Head of Circle concerned as the competent authority, the said authority itself has to exercise the power conferred upon it. It cannot, on its own, say that the cases which are not covered by the Annexure A-3 instructions has to be rejected at the lower level. The question then is why such covered cases should be approved at such a



higher level of the CPMG. They could very well be disposed of at lower levels. Therefore, the attitude of the authority concerned that it will consider only the covered cases and other cases have to be rejected at the lower level would tantamount to dereliction of duty. We, therefore, hold that once the Heads of Circles have been given the responsibility to consider the applications for request of transfer of GDSs by the Government of India, they have to be considered by them only and not by anyone else at the lower level. We, therefore, dispose of this OA with the direction to the 2nd respondent to consider the Annexure A-5 representation of the applicant dated 11.12.2007 and take an appropriate decision and convey the same to the applicant within a period of two months from the date of receipt of copy of this order. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(GEORGE PARACKEN)
JUDICIAL MEMBER

"SA"