

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.68/2007

Tuesday this the 14 th day of August, 2007.

CORAM:

**HONB'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

Manu P.S.,
S/o N. Peethambaran,
Gramin Dak Sevak Delivery Agent I,
Vettikavala Post Office,
Kottarakara Sub Division,
Kollam Division, Residing at
'Roadvila Puthenveedu',
Kollayil P.O., Madathara,
Kollam District. Applicant

(By Advocate Shri Shafik M. Abdul Khader)

Vs.

1. Union of India, represented by the
Director General,
Department of Posts, New Delhi.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Kollam Division, Kollam. Respondents

(By Advocate Shri P. Parameswaran Nair, ACGSC)

The application having been heard on 14.8.07
the Tribunal on the same day delivered the following:

O R D E R

HONB'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant is aggrieved by the refusal of the respondents to grant him a transfer to the post of GDSMD, Kollayil. It is contended that the applicant, a Volleyball player, while studying, was appointed as GDSMD,

Kollayil as a substitute of the regular incumbent w.e.f. 29.12.1999. He continued there for five years. He was working in the said post, till 2002 and in January 2004 he was terminated from service. He was being utilised for the Kerala Postal Volleyball Team during their period. He had approached this Tribunal in O.A.224/05 for a regular appointment and the Tribunal in its order dated 12.7.05 in para 9 and 10 observed that, the department was utilising the applicant's sport skills in various occasions and therefore, denial of a regular appointment to him is unacceptable and directed the respondents to consider the applicant for regular appointment in any of the vacant posts which were mentioned by him that existed on that date. Without complying with the order of the Tribunal, the Department had filed a Writ Petition (Civil) No.36951/2004 before the Hon'ble High Court of Kerala, which was also dismissed. Thereafter the respondents appointed the applicant as GDSMD, Vettikavala (i.e.65 kms.away from his home town) with effect from 16.11.2005. The applicant then made a request for transfer to his native place to a post of GDSMD which had become vacant. The respondents rejected the same.

2. Therefore, the applicant again came up before this Tribunal in this O.A., aggrieved by the respondents' turning down of his request for transfer to the post of GDSMD, Kollayil. It is the submission of the applicant that the place to which he is posted i.e. Vettikavala has no facility for training not even a sports club, whereas in his native place, Kollayil is having full-fledged Sports facilities and Sports Club also, which would enable him to regularly practise in Volleyball.

3. The respondents in their reply statement have submitted that, the request of the applicant was examined by the 2nd respondent, but, as the applicant had not completed three years of service as GDSMD at Vettikavala, which is one of the conditions prescribed for transfers in terms of the guidelines (Annexure R-1) relating to Limited Transfer Facility to Gramin Dak Sevaks dated 17.7.2006, the same was rejected. The respondents do not seem to have taken note of the averments made in the application that, no facilities are available for sports training at Vettikavala. From Annexures A7 and A-9 produced by the applicant, it is clear that the applicant is a member of the Kerala Postal Volleyball Team 2006, and has been winning in the tournaments held. Therefore, the contention of the applicant that his sports skill is consistently being utilized by the department, as a member of the Volleyball Team, is found correct. Constant practice and training is required to keep up the performance standards in the competitions.

4. The respondents should have considered his request to be posted at a place where he can improve his sporting talents by practice, in that context and not rejected it on technical grounds.

5. We are therefore, of the considered view that, the Departmental Authorities should look into the matter again keeping in view the above aspects. The Transfer Guidelines at Annexure R-1 vests such powers with the Heads of Circles, who, in exceptional circumstances can decide the individual cases on merit, keeping in view the standards of public interest.

6. We, therefore, direct the 2nd respondent to reconsider the representation of the applicant at A-8 in the light of our observations made above and also in the earlier order in O.A.224/05 (A3), and pass a reasoned order and communicate the same to the applicant within a period of one month. We also direct that, the post of GDSMD at Kollayil which is vacant now, shall not be filled up till such reconsideration and communication of the decision to the applicant.

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

Dated the 14th August, 2007.


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN