

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.435/98 and O.A. No.97/2000.

Tuesday this the 1st day of August, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

O.A. No.435/98:

Mohanan K.K..
Karur House,
Kanayannur,
Chottanikkara P.O.

Applicant

By Advocate Shri K.G. Anil Babu)

Vs

1. The Union of India represented by
the Secretary,
Ministry of Communications,
Department of Posts,
New Delhi.
2. The Director General of Posts,
Dak Bhavan, New Delhi.
3. The Assistant Postmaster General,
Central Region, Kochi -16.
4. The Senior Superintendent of
Post Offices,
Ernakulam Division,
Kochi -11.

Respondents

By Advocate Shri Govindh K. Bharathan, SCGSC)

O.A. No.97/2000:

Tyagi Balan,
E.D.L.B. Peon,
Mattancherry P.O.,
Cochin-2.

Applicant

By Advocate Shri Cyriac Kurian

Vs

1. The Union of India
represented by the Secretary,
Department of Posts,
New Delhi.

2. The Director General of Posts,
Dak Bhavan, New Delhi.
3. The Assistant Postmaster General,
Central Region, Kochi -16.
4. The Senior Superintendent of
Post Offices,
Kochi Sub Division,
Kochi -1.

Respondents

By Advocate Shri R. Prasanth Kumar, ACGSC

The application having been heard on 1.8.2000, the Tribunal on the same day delivered the following:

O R D E R

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

The facts of these two cases are closely inter-related in as much as the applicants in these two cases are seeking for transfer to the post of Extra Departmental Branch Post Master (EDBPM for short), Amballoor. The question of law involved in these cases are also identical. Therefore, these two O.As. are being heard and disposed of by a common order.

2. Shri. Mohanan K.K., applicant in O.A. 435/98 working as Extra Departmental Delivery Agent (EDDA for short) at Chottanikkara Sub Post Office, applied for a transfer to the post of EDBPM, Amballoor. As he was not being considered for appointment by transfer probably on account of the clarification given in the letter No. CC/2-95/96 dated 16.10.97 of the Assistant Postmaster General, 3rd respondent, the applicant has filed this application for setting aside the above letter (A-3) as illegal, arbitrary and without authority and for a direction to the 4th respondent to appoint the applicant as EDBPM in Amballoor Branch Office in the existing vacancy by giving a transfer.

3. There was an interim order against filling up the post of EDBPM, Amballoor on regular basis issued on 19.3.98. Therefore, the post has not been filled so far on regular basis.

4. The applicant (in O.A. 97/2000), Shri Tyagi Balan working as Extra Departmental Letter Box Peon (EDLBP for short) at Mattancherry Post office also had made a request for appointment by transfer as EDBPM, Amballoor. His request also was not favourably considered probably basing on the same instructions of the Postmaster General dated 16.10.97. He has, therefore, filed this application for setting aside the impugned order (A-III) and for a direction to the 4th respondent to appoint the applicant as EDBPM, Amballoor P.O. by transfer.

5. Respondents in both these applications have filed a reply statement contending that as per the extant instructions, there is no provision for transfer of an ED agent from one post to another and transfer is given only when a post is abolished or for the purpose of accommodating an ED Agent who has been redeployed in distant place on surplusage.

6. We have heard the learned counsel on either side. This Tribunal in O.A. 45/98 considered identically rival

contentions and on interpretation of the letter of DG Posts dated 12.8.98, it was held that a working ED Agent, if he satisfies the eligibility criteria for appointment to another ED post and is found suitable, he can be appointed without being sponsored by the Employment Exchange and without subjecting to a selection with outsiders. We do not find any reason to take a different view in this matter so long as the ruling of this Bench of the Tribunal as per order in O.A. 45/98 has not been modified or set aside by higher forum. However, learned counsel for respondents argued that in O.A. 813/99 it was held that transfer can be made only in the same office or in the same place. That judgement has been rendered because a clarificatory order issued by the DG Posts that 'the same place' would mean 'recruitment unit' and recruitment unit in the case of EDBPM/EDSPM is division, was not brought to the notice of the Bench and therefore the said judgement cannot be treated as a precedent. Since the Amballoor, Chottanikkara and Mattachancherry are under the same division and the post in question is that of EDBPM, we are of the considered view that the applicants in both these cases are entitled to be considered for transfer.

7. In the light of what is stated above, both these applications are disposed of directing the respondents to consider the requests made by the applicants in these two cases as also similar request from any other working ED Agents

for appointment for the post of EDBPM by transfer and that only if the said method fails recruitment from open market shall be resorted to. The impugned orders have already been quashed in earlier proceedings. No costs.

Dated 1st August 2000.

Sd/-
(G.RAMAKRISHNAN)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

iv.

Annexure A3 in O.A. 435/98

Annexure AIII in O.A.97/2000

) True copy of the letter
) No. CC/2-95/96 dated 16.10.1997
) of the 3rd respondent.