

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 117 OF 2010

Monday, this the 5th day of April, 2010

CORAM:

HON'BLE Mr. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Salim Babu P.K.
Sub Divisional Engineer (Internal 2)
Bharat Sanchar Nigam Ltd.
Kayamkulam

Applicant

(By Advocate Mr. P. Chandrasekhar)

versus

1. The Chief General Manager
Bharat Sanchar Nigam Limited
Thiruvananthapuram
2. The General Manager, Telecom,
Bharat Sanchar Nigam Limited
Alleppey
3. The Assistant General Manager (Admn)
Office of the General Manager Telecom Division
Bharat Sanchar Nigam Limited
Alleppey
4. The Divisional Engineer, Telecom
Bharat Sanchar Nigam Limited
Kayamkulam

Respondents

(By Advocate Mr. Johnson Gomez)

The application having been heard on 05.04.2010, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER

The applicant has filed this OA with the following prayers :

- a. A direction directing th 1st respondent to consider Annexure A-5 petition and grant to the applicant transfer benefit as applied for by him as per Annexure A-3 and release the amount due to the applicant, forthwith,

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- b, *A direction directing the 2nd respondent to consider Annexure A-10, sanction to the applicant restricted holiday on 18.09.2009 on account of Ramzan and release and pay to the applicant Rs.1466/- deducted from his salary for his absence on the day of Ramzan, that is 18.09.2009, forthwith.*

2. The applicant while working as JTO, officiated as Sub Divisional Engineer, Microwave Station, Kalpetta from 2001 and thereafter he was transferred to Mavelikkara from 02.02.2002. He was further posted at Kayamkulam with effect from 07.06.2002. While so, he was transferred to Alleppey on 16.06.2004. He joined duty at Alleppey on 16.07.2004. Thereafter the applicant applied for exemption from shifting his residence from Kayamkulam to Alleppey. As shifting was not allowed, he approached the Hon'ble High Court of Kerala by filing Writ Petition(C) NO. 1668/07. The W.P(C) was dismissed by a learned Single Judge of the Hon'ble High Court. Thereafter, the applicant submitted an application for transfer from Alleppey to Kayamkulam. The applicant was transferred to Kayamkulam on 11.06.2009. The grievance of the applicant is that he was not given the transfer benefits. The other case of the applicant is that on 17.09.2009, the applicant applied for R.H on 18.09.2009 in order to avail the Ramzan programme scheduled on 21.09.2009 and that leave was rejected. In the above circumstance, the applicant filed this OA. The OA has been admitted and the respondents resisted the OA by filing a reply statement. The stand taken in the reply statement is that the applicant was transferred from Alleppey to Kayamkulam on his own request as is evident from Annexure R-1(a). Hence, he is not entitled for transfer benefits. With regard to R.H for 18.09.2009, the stand taken in the reply statement is that as there was no sufficient staff, R.H was not given to the applicant. The reason stated in the reply statement is that the competent authority found that there was a lot of pending work, so the request for RH was denied. Hence 18.09.2009 was recorded as dies non.



3. We have heard Mr.P.Chandrasekhar, learned counsel for applicant and Mr.Johnson, learned counsel for respondents. The case of the applicant is that after serving outside district, he came to Mavelikara and thereafter, he was transferred to Alleppey and being a native of Kayamkulam he wanted to be transferred to Kayamkulam. It is evident From Annexure R-1 (a) that the applicant also has applied for transfer to Kayamkulam. At the same time, it could be seen that the applicant had completed his tenure in Alleppey and the other officers who were transferred on completion of tenure were given the transfer benefits. Hence, counsel for applicant requested that his Tribunal may allow the transfer benefits to him also. With regard to the claim for entry in the service records as dies non for the day 18.09.2009, counsel for applicant submitted that being the last working Friday and being RH on 18.09.2009, he applied for RH and that was denied to him and it was against the norms approved by th Department, especially the applicant being a Muslim and being the last Friday, he should have been given RH. It is already declared as RH by the Central Government. Hence the recording in the service records as dies non on 18.09.2009 is also to be interfered with by this Tribunal. At the same time, counsel for respondents submits that since the applicant has not changed his place of residence, he is not entitled for the transfer benefits, even if the transfer is after completion of tenure period at Alleppey. With regard to the claim for R.H, counsel for respondent submits that the applicant is not entitled to get a holiday on 18.09.2010 as there was no sufficient staff in the Department.

4. We have considered these issues and we are of the view that the claim of transfer benefits are not entitled to the applicant on the reason that




he has requested for transfer to Kayamkulam and he has not changed his residence. Hence the first request of the applicant stands failed. With regard to the second request, regarding dies non on 18.09.2009, we are of the view that as per Government of India, 18.09.2009 has already been declared as RH. Being a Muslim and being the last Friday of Ramzan month, the applicant is entitled to take that RH. So the recording of dies non on 18.09.2009 in the service records of the applicant is irrational and irregular and we set aside the same. Hence we declare that there shall be no break in service due to dies non recorded on 18.09.2009.

5. OA is allowed to the above extent. No order as to costs.

Dated, the 5th April, 2010.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE K.THANKAPPAN
JUDICIAL MEMBER

vs