

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 127 of 2004

Friday, this the 6th day of August, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. K. Sobhana,
GDSMD, Mampazhathara BO, Edamon
Residing at Bungalow Muruppall Veedu,
Urukunnu PO.Applicant

[By Advocate Shri Vishnu S Chempazhanthiyil]

Versus

1. Sub Divisional Inspector,
Punalur Postal Sub Division,
Punalur.
2. Superintendent of Post Offices,
Pathanamthitta Postal Division,
Pathanamthitta.
3. Chief Post Master General,
Kerala Postal Circle, Trivandrum.
4. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi.Respondents

[By Advocate Shri C. Rajendran, SCGSC]

The application having been heard on 6-8-2004, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Gramin Dak Sevak Mail Deliverer (GDSMD for short), Mampazhanthara BO, applied for a transfer to the post of GDSMD Urukunnu on the ground that the place is near to her residence and more convenient. Since her request was not being considered, the applicant has filed this application for a direction to the respondents to consider the request of the applicant for transfer to Urukunnu BO as GDSMD and to consider and dispose of Annexure A4 representation.

2. Respondents contend that Gramin Dak Sevak (GDS) is not entitled to seek transfer in view of the fact that GDS (Conduct and Employment) Rules, 2001 provides for no transfer liability. They also contend that the post is not required to be filled up now as the work could be managed by existing GDSs as per the prevailing instructions. Further, they contend that since TRCA of the post of GDSMD Mampazhathara, where the applicant is working, is only Rs.1375-2125, the TRCA of the post of GDSMD Urukunnu being Rs.1740-2640 a transfer from a lower post to a higher post is not permissible in terms of the judgement of the Hon'ble High Court of Kerala in W.P.(C) Nos. 32571, 32757, 32814 & 32821 of 2003.

3. We have gone through the pleadings and materials placed on record and have heard Shri Vishnu S Chempazhanthiyil, learned counsel of the applicant and Shri C.Rajendran, SCGSC for the respondents.

4. The contention of the respondents that the request of the applicant cannot be considered for the reason that there is no transfer liability for GDSs has no force because the transfer liability is different from a privilege of being considered for a transfer on request. The applicant is only seeking that privilege and there is no prohibition in the rules against making such requests to the competent authority or against considering such requests. Further, the contention of the respondents that since TRCA of the post of GDSMD Urukunnu is higher than the TRCA of the post of GDSMD Mampazhathara, where the applicant is presently working, the transfer is not permissible in terms of the dictum of the Hon'ble High Court of Kerala in W.P.(C) Nos. 32571, 32757, 32814 & 32821 of 2003 is also untenable because what is held by the Hon'ble High Court is that a transfer from a lower post to a higher post is not

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permissible. The post which the applicant holds is GDSMD and the post to which he seeks a transfer is also GDSMD. Both are identical posts. TRCA of the post of GDSMD is likely to vary according to the change in the workload. If the workload in the Branch Office, Urukunnu goes down, the TRCA of that post would also naturally go down. It is also possible that if the workload in the Branch Office at Mampazhathara increases, the GDSMD there may get even higher TRCA than the GDSMD, Urukunnu. Therefore, it cannot be said that GDSMD, Urukunnu is a higher post than the post of GDSMD, Mampazhathara.

5. In the light of what is stated above, the Original Application is disposed of directing the respondents that, if and when the respondents intend to fill up the post of GDSMD, Urukunnu, they shall first consider the case of the applicant for a transfer along with requests of any other working GDSMD and recruitment from open market be resorted to only if the GDSMD who applied for transfer including the applicant are found ineligible or unsuitable. No order as to costs. *af any*

Friday, this the 6th day of August, 2004


H.P. DAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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