

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 142 of 2001

Friday, this the 25th day of May, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. T. Maheshkumar, S/o Thanu Pillai,
Extra Departmental Packer,
Fort Post Office, Trivandrum-23
Residing at: NRA-19, Kizhethil Veedu,
Nemom, Trivandrum-20

.. Applicant

By Advocate Mr. T.C. Govindaswamy

Versus

1. Union of India represented by the
Secretary to Government of India,
Ministry of Communications,
Department of Posts, New Delhi.
2. The Chief Post Master General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Trivandrum North Division, Trivandrum-1
4. The Senior Post Master, General Post Office,
(Department of Posts), Trivandrum.
5. The Assistant Superintendent of Post Offices,
Trivandrum North Division, Trivandrum-1 ... Respondents

By Advocate Ms. A. Rajeswari, ACGSC

The application having been heard on 25-5-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A1, to declare that he is
entitled/eligible to be considered for transfer and appoint-
ment in the existing vacancy of ED Packer at the General
Post office, Trivandrum and to direct the respondents to
transfer and post him accordingly.

2. The applicant is working as an Extra Departmental Packer
in the Fort Post Office, Trivandrum. He submitted A7 repre-

...2.

sentation for a transfer to the General Post Office, Trivandrum. That has been turned down as per A1. The applicant says that A1 is arbitrary and contrary to law, that the same is without any application of mind, that he is eligible to be considered for transfer to the General Post Office, Trivandrum and that clarifications given in A9 are relevant in this context.

3. Respondents resist the OA contending that such request as made by the applicant can be considered in rare cases, if mitigating/valid grounds have been adduced by the ED Agent such as medical grounds, shifting of residence from the place where he is presently working etc. No such valid ground is raised by the applicant. As per A9 the request of an ED Agent for transfer to another recruiting unit can be considered if he gives an undertaking to forfeit his past service. The applicant will not be benefitted in any manner if he is offered the post of ED Packer, Trivandrum General Post Office and it was because of the above his request for transfer to Trivandrum GPO was not acceded to. The applicant cannot seek a transfer to another unit on the plea that earlier transfer effected was not based on his request. If the transfer from one recruiting unit to another is to be given freely, it is to be considered provided the applicant gives an undertaking to forgo his past service.

4. The applicant submitted A7 representation to the 2nd respondent requesting to transfer him to General Post Office, Trivandrum. As per A5, the applicant was informed that transfer from one recruiting unit to another will be treated as fresh appointment and Extra Departmental Agent concerned will forfeit his past service and will rank juniormost to all the regularly appointed Extra Departmental Agents in that recruiting unit. In pursuance of the same, the applicant submitted A6 stating

that he is willing to forgo his past service as ED Packer in the Fort Post Office, Trivandrum. It is subsequent to that A1, the impugned order, was passed. The reason stated in A1 for rejection of the request of the applicant is that:

"since a transfer to another office in the same place was given earlier, you are not eligible for a retransfer."

5. The learned counsel appearing for the applicant drew our attention to A9, wherein clarifications have been given. There to Query No.5 the clarification given is so long as the ED Agents seeking transfer from a Head Office or LSG Sub Division against a post falling vacant in a Sub Division and vice versa are borne on the gradation list of the same Division and the ED Agents seeking transfer to the post of EDBPM/EDSPM within the same Division fulfil the eligibility criteria laid down for appointment as EDBPM/EDSPM. So, it relates to ED Agents seeking request transfers. There is no case for the respondents that the applicant was given any transfer on his request earlier.

6. In the reply statement, respondents say that the applicant has not raised any valid ground justifying his request for transfer. It is not on that reason A7 representation has been rejected as per A1. What we have to see is whether the impugned order is sustainable in law for the reason stated therein. It is not that reason supporting the impugned order can be given in the reply statement.

7. It is also stated in the reply statement that the applicant will not be benefitted in any manner if he is offered the post of ED Packer, Trivandrum GPO. If the applicant will not be benefitted, he would not have sought for. It is not on this reason that his request has been turned down as per A1.

Respondents also admit that transfer from one recruiting unit to another can be considered provided the applicant undertakes to forgo his past service. As already stated, it is done in this case.

8. The reason stated for rejection of A7 in A1 cannot be sustained. That being so, A1 is liable to be quashed.

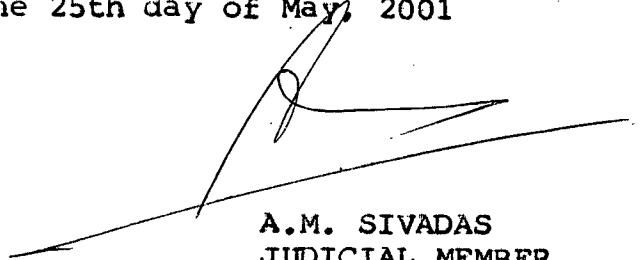
9. Accordingly, A1 is quashed. The 2nd respondent is directed to consider A7 representation afresh in the light of the instructions, circulars and orders on the subject and pass appropriate orders within two months from the date of receipt of a copy of this order. The interim relief granted as per order dated 15-2-2001 shall continue in force till A7 representation is disposed of.

10. The Original Application is disposed of as above. No costs.

Friday, this the 25th day of May, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of order No. BIC/TFR/BPM dated 1-2-2001 issued by the third respondent.
2. A5 True copy of the order No. BIC/TFR/BPM dated 16-11-2000 issued by the 5th respondent.
3. A6 True copy of the representation submitted by the applicant on or about 20-11-2000
4. A7 True copy of the representation submitted by the applicant on 5-1-2001 to the second respondent.
5. A9 True copy of the order No. IV-60/95-ED&TRG dated 28-8-96 issued from the office of the 1st respondent.