

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 157/2005

.....Thursday.....this the 17th day of November, 2005

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HON'BLE MRS. SATHI NAIR, VICE CHIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

P.P.Bharathan, aged 55 years
S/o Koran, Mail Overseer,
Kannur Sub Division,
Kannur, residing at Girisuri Nilayam,
Kavinmoola, Mamba
Kannur District.Applicant

(By Advocate M/s M.Sasindran and MB Prajith)

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- 1 The Post Master General,
Northern Region, Calicut,
Kozhikode District.
- 2 The Superintendent of Post Offices,
Office of the SPO, Kannur Division,
Kannur.
- 3 P.Ramakrishnan, aged and father's name not known
to the applicant, Superintendent of Post Offices,
Office of the SPO, Kannur Division, Kannur.
- 4 The Director General of Posts,
Dak Bhavan, New Delhi.
- 5 The Union of India – represented by its
Secretary, Department of Posts,
New Delhi.
- 6 C.Balan, Sorting Postman,
Kannur Head Post Office,
Kannur
(now under order of transfer as Mail
Overseer, Kannur Sub Division,



Kannur).

,...Respondents

(By Advocate Mr.TPM Ibrahim Khan (R1,24&5)
Mr.P.K.Ravikrishnan (R6)

The application having been heard on 7.11.2005, the Tribunal on 17.11.2005 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The Applicant in this O.A is aggrieved by the Annexure.A.11 order dated 28.2.05 by which he along with three others have been transferred under the orders of the Superintendent of Post Offices, Kannur Division. It has been stated in the said order that the applicant Shri P.P.Bharathan, Mail Overseer, Kannur Sub Division is transferred as Post Master, Madayi in the vacant post. The applicant has challenged the aforesaid transfer order stating that it amounts to reversion as he could not be transferred from the post of Mail Overseer to a lower post of Postman. According to the Applicant the post of Mail Overseer is a promotional post for Postman and Village Postman and have supervisory control over them, He has relied upon Rule 281 of Chapter VIII of Vol. IV of P&T Manual which is reproduced below:

"281. - Appointment to the post of Branch Post Masters, Overseers, Overseer Postmen, Sorting or Reader Postmen and Head Postmen should be made by promotion of Postmen and Village Postmen such appointments will normally be made in order of seniority, but the appointing authority may, in his discretion pass over any senior official who he does not consider fit for such appointment. A single gradation list should be maintained for the holders of

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all these posts which should be made interchangeable."

He has also relied upon Rule 355 (2) of Chapter 7 of Volume VIII of the P&T Manual which states the duties of Mail Overseer which is as under:

"The Overseer should when travelling over his beat examine the conditions and seals of the bags carried by the runners and books and articles in the custody of the Village Postmen or Postmen whom he happens to meet, and report the result in his diary."

2. He has therefore, argued that the post of Mail Overseer being a promotional post of Postman and having supervisory control over the Postman, the incumbent once posted as Mail Overseer cannot be changed until the post become vacant. He has relied upon the Annexure.A1 order of the Department of Posts, Office of Chief Post Master General, Kerala Circle, Trivandrum in which it has been stated that the following uniform procedure throughout the Circle shall be followed in the matter of posting of BCR officials in Postman Cadre in Supervisory posts such as Head Postman, Mail Overseer, Cash Overseer etc.

"(a) Whenever vacancy arises in a Supervisory post of Head Postman and allied cadres, the senior most BCR officials should be posted.

(b) If seniors are not willing to take up the appointments next juniors should be considered for posting.

© If none in the BCR cadre is willing, the TBOP officials should be considered in the order of seniority and subject to willingness.

(d) If no BCR/TBOP official is willing to be posted, the junior most TBOP official should be posted compulsorily.

(e) Incumbents of the post once posted need not be changed until the post becomes vacant.

(f) There should not be any objection to inter change the incumbents of two posts (Operative or Supervisory) provided the concerned officials represent for such a change, and or in the interest of service.

(g) All postings ordered as mentioned above should invariably be based on the suitability of the official concerned to the particular post."

3. The Respondents on the other hand has submitted that the Mail Overseer, Kannur Sub Division was transferred as Postman at Madayi and Shri C.Balan, Head Postman, Kannur Head Post Office was transferred as Mail Overseer, Kannur Sub Division as per the impugned order dated 28.2.05 issued by the Second Respondent. In terms of the aforesaid order Shri C.Balan was relieved from the post of Head Post Man, Kannur on 1.3.05 and he had assumed the charge of Mail Overseer, Kannur Sub Division on the same day. The Respondents have also submitted that Shri Balan who has been transferred as Mail Overseer, Kannur Sub Division is senior to the Applicant. Moreover, the transfer would not adversely affect the pay or seniority of the Applicant in any manner and the Annexure.R.2(a) order involves only transfer and not a reversion as claimed by the applicant. In fact the Applicant had filed an earlier O.A. 424/04 when he was transferred and posted as Mail Overseer

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at Payyannur and thereafter transferred to Kannur. The Applicant averred in that OA that an incumbent of the post once posted need not be changed until the post becomes vacant and he had pleaded that against the said rules the Applicant was likely to be disturbed from Kannur and therefore, he had filed the said OA seeking the following reliefs:

- (i) To call for the records leading to Annexure.A4 issued by the 2nd respondent, examine the same and quash the same, in so far as it is applicable to the Kannur Sub Division.
- (ii) Issue an order to restrain the 2nd respondent from reverting the applicant from the post of Mail Overseer to the post of Postman and/or from replacing the applicant with any other official in furtherance of Annexure.A4 memo issued by the 2nd respondent.
- (iii) To command the 1st respondent to consider and pass orders on the Annexure.A4 representation submitted by the applicant forthwith and further to keep all further proceedings pursuant to Annexure.A4 till the disposal of Annexure.A5 representation.
- (iv) To issue an order directing the respondents to regularize the applicant in the post of Mail Overseer forthwith.
- (v) To declare that the applicant is entitled to be regularized as Mail Overseer at Kannur Sub Division and that he is not liable to be reverted or replaced by others.
- (vi) To issue any other order as this Hon'ble Tribunal may deem just, fit and proper in the facts and circumstances of the case."

This Tribunal vide order dated 28.12.04 disposed of the aforesaid OA directing the Respondents to dispose of his representation dated

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6.12.04 which was pending before the 1st Respondent. In terms of the aforesaid direction of this Tribunal, the 1st Respondent has issued Annexure.A7 Memo dated 23.2.05 and submitted that there was a proposal to shift the official from the post of Mail Overseer, Kannur Sub Division and the records suggest that the Applicant was initially posted as Mail Overseer overlooking the seniority of two senior officials who have expressed willingness to be posted. The report regarding Applicant also indicated that his work and conduct in the post of Mail Overseer are not found satisfactory and he is facing departmental disciplinary proceedings. The competent authority has found him unsuitable for the post of Mail Overseer. Further, it was stated that the transfer/postings are administrative actions which will have to be resorted to from time to time in administrative interest and even if the Applicant was to be shifted to another post he will not have any adverse effect on his pay or seniority. The issue involves is only transfer, which is a route administrative action. Further the Respondents have submitted that the Applicant himself was appointed as Mail Overseer earlier not as promotion but as transfer.

4. We have heard the counsels for both the parties and perused the documents available on record. It is found from the pleadings that the contention of the Applicant that the post of Mail Overseer cannot be inter-changed with the Postman is not true. Both the posts after the TBOP Scheme are having the same pay scale. The duties and responsibilities are also the same. The postings of Mail



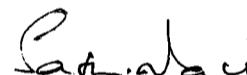
Overseer is not done strictly in accordance with the seniority but it is based on the assessment of the competent authority regarding the suitability of the person to hold that post. The Respondents have found the Applicant unsuitable to hold the post of Mail Overseer. Moreover, the initial appointment of the Applicant as a Mail Overseer was also not as promotion but as transfer without any regard for the seniority.

5. In view of the aforesaid facts and circumstances we do not find any infirmity in the impugned order and the O.A is accordingly dismissed with no order as to costs.

Dated this the 17th day of November, 2005


GEORGE PARACKEN
JUDICIAL MEMBER

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SATHI NAIR
VICE CHAIRMAN