

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.164/2002

Monday this the 11th day of March, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Mrs.Ambika Sivadas,
W/o K.Sivadasan, aged 41,
Lower Division Clerk,
Employees Provident Fund Organisation,
Sub Regional Office, Kottayam
residing at Krishna Kripa, TC No.29/2.
Thulayil Lane, Pettah PO,
Thiruvananthapuram.Applicant

(By Advocate Ms. Saro A)

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1. The Central Provident Fund Commissioner,
The Employees Provident Fund Organisation,
Central Office, Bhavishyanidhi Bhavan,
HUDCO Vishala-14 Bikaji Kama Place,
New Delhi-110 066.
2. The Regional Provident Fund Commissioner,
Kerala, Pattom, Thiruvananthapuram.
3. The Regional Provident Fund Commissioner,
Sub Regional Office, Kottayam. ...Respondents

(By Advocate Mr. N.N. Sugunapalan)

The application having been heard on 11.3.2002, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicant who was selected and appointed as
Lower Division Clerk in the Directorate General of Works,
Central Public Works Department in the Ministry of Urban
Affairs and Employment, New Delhi got married in the year
1987. As she could not become a mother, for availing
specialised treatment she got transferred to the office of

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the Regional Provident Fund Commissioner, Trivandrum in the year 1996. Her husband also got transferred to Trivandrum. While the applicant was working in Trivandrum and was undergoing the treatment for Adenomyosis by order dated 27.6.2000 (A8) she was transferred to the Sub Regional Office at Kottayam on exigencies of service. Aggrieved by the transfer, the applicant filed OA 824/2001. The OA was disposed of as agreed to by the counsel on either side with a direction to the second respondent, the Regional Provident Fund Commissioner, Kerala Trivandrum to consider the request of the applicant for cancellation of the transfer taking into account her health condition and the facts peculiar to her with due sympathy. After due consideration of the case of the applicant for cancellation of the transfer, the second respondent issued the impugned order Annexure.A17 dated 6.11.2001 by which the applicant was informed that for want of a vacancy in Trivandrum in the clerical cadre, he is not in a position to help her indicating that her request has been noted for consideration and as and when a vacancy would become available.

2. Dissatisfied with this order, the applicant has filed this application impugning Annexures.A8 and A.17 and for a direction to the respondents to retransfer the applicant from Sub Regional Provident Commissioner Officer, Kottayam to Regional Provident Fund Commissioner office at Trivandrum.

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4. We have heard Ms. Saro A, the learned counsel of the applicant as also Shri G.Balakrishnan appearing on behalf of Shri N.N.Sugunapalan for the respondents. Learned counsel of the applicant argued that as there are several persons working in Trivandrum who are natives of Kottayam, the applicant should have been accommodated in a post at Trivandrum by transferring one of the natives of Kottayam from Trivandrum. On creation of the Sub Regional Provident Commissioner Office at Kottayam the administration called for options from Lower Division Clerks working in Trivandrum to be transferred to Kottayam. As sufficient number of persons did not opt, the administration decided to transfer the juniormost LDCs from Trivandrum to Kottayam. The applicant happened to be one of the juniormost. Therefore, the argument of the learned counsel for the applicant that as there are many persons belonging to Kottayam working in Trivandrum and the applicant should have been accommodated by transferring one such person from Trivandrum to Kottayam has no force at all. A careful reading of Annexure A17 would make it abundantly clear that the second respondent has passed the order not in a haphazard manner but after full and complete application of mind to the existing fact situation. That the second respondent has due sympathy towards the applicant is explicit in his order but sympathy alone cannot decide things. For want of vacancy in the clerical cadre the second respondent even with sympathy was not in a position to help her immediately. The second respondent has in the order indicated that when things

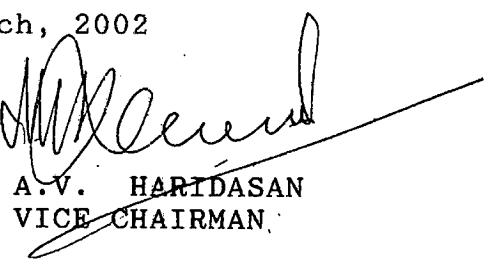
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improve, her request would be considered when a vacancy at Trivandrum would arise. We, therefore, do not find fault with the impugned order even *prima facie*.

4. In the light of what is stated above, we do not find any reason to entertain this application. Hence the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 11th day of March, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

:(s)

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the O.P. slip dated 25.3.90 of Lady Hardinge Medical Hospital, New Delhi.
2. A-2 : True copy of discharge summary dated 19.5.90 of the Cosmopolitan Hospital, Trivandrum.
3. A-3 : True copy of Discharge Summary dated 6.6.90 issued by the Cosmopolitan Hospital, Trivandrum.
4. A-4 : True copy of the O.P slip dated 21.7.90 of Dr. Ram Manohar Lohia Hospital, New Delhi.
5. A-5 : True copy of the O.P Ticket dated 23.1.91 of Dr. Ram Manohar Lohia Hospital, New Delhi.
6. A-6 : True copy of the Medical Certificate dated 15.11.99 issued by Dr. M. Vasudeva Sharma to the applicant.
7. A-7 : True copy of the refer slip dated 23.2.2000 issued by Chief Medical Officer-in-charge, Central Govt. Health Scheme, Trivandrum.
8. A-8 : True copy of the office order No.215/2000 dt.27.6.00 issued by the 2nd respondent to the applicant.
9. A-9 : True copy of the guidelines dated 11.11.80 issued by the 1st respondent to the 2nd respondent.

10. A-10: True copy of the Minutes of the discussion of the Joint Action Council had with the Central Provident Fund Commissioner on 19.8.82 on the subject of moving records and personnel from the Regional Office, Trivandrum to Sub Regional Office.
11. A-11: A list of the employees of the 2nd respondent whose Home Town is Kottayam or near by places.
12. A-12: True copy of the O.P ticket issued by the Sree Avittom Thirunal Hospital to the Applicant.
13. A-13: True copy of representation submitted by the applicant to the 2nd respondent dated 9.4.2001.
14. A-14: True copy of the Discharge Card dated 20.6.2001 issued by K.J.K Hospital, Trivandrum.
15. A-15: True copy of the Medical Certificate dated 16.9.2001 issued by Dr.K.Jayakrishnan Consultant in Reproductive Medicine, K.J.K Hospital, Nalanchira, Thiruvananthapuram.
16. A-16: True copy of the order dated 9.10.2001 of this Hon'ble Tribunal in O.A 824 of 2001.
17. A-17: True copy of the office order No.KR.Adm.1(1)/OA.824/2001 dated 6.11.2001 issued by the 2nd respondent to the applicant.

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