

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 184/2000

Wednesday, the 26th day of July, 2000.
CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Gouri P.
W/o P.Balakrishnan
Extra Departmental Branch Post Master
Ranipuram B.O.
Via. Ranipuram, Kasargod District.
R/o T.K.House, Chander
Maniyat, Trikaripur
Kasargod.

Applicant

By advocate Mr O.V.Radhakrishnan

Versus

1. Superintendent of Post Offices
Kasargod Division
Kasargod.
2. Union of India represented by its Secretary
Ministry of Communication's
New Delhi.
3. Asha K.
D/o K.P.Damodaran Nair
R/o "Aswathy"
Kinathil P.O.
Udinur 671 349.

Respondents.

By advocate Mr R.Prasanth Kumar, R1 & 2
Mr M.R.Rajendran Nair, R-3

The application having been heard on 26th July, 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

Applicant who is working as Extra Departmental Branch Post Master, Ranipuram Branch Office made a request on 7.2.2000 that she may be transferred and appointed as Extra Departmental Branch Post Master, Vellap. As there was no response to the representation, the applicant has filed this application seeking to have A-2 notification dated 20.1.2000 set aside and a declaration that she as a working EDDA in the

same Division is entitled to be appointed by transfer to another post in the same division and to issue appropriate direction to the respondents to consider her case for such appointment by transfer.

2. One Asha.K. got herself impleaded as additional respondent No.3. Respondents 1 & 2 filed reply statement wherein it is contended that an ED Agent has no right to be transferred to another ED post, that this Tribunal has in OA No.813/99 held that an Extra Departmental Branch Post Master is not entitled to seek transfer to another post of EDBPM in the same division as transfer can be sought only in the same place in the same division, that in almost a similar case, the order passed by the Tribunal allowing a case of transfer has been stayed by the High Court in O.P.No.11512/2000 and that, therefore, this application may be dismissed.

3. We have heard the learned counsel for the parties and perused the pleadings and materials placed on record. In OA No.45/98, the Tribunal has considered the question whether a working ED Agent is entitled to be appointed by transfer to another ED post falling vacant in the same place in the same station. It has been held that in terms of the instructions contained in the letter of the Director General of Posts dated 12.9.88, a working ED Agent is entitled to be considered for appointment by transfer without being routed through employment exchange and without ~~and~~ being subjected to competition with outsiders.

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4. We do not find any reason to take a different view in this case. The order of the Kerala High Court in O.P.No.11512/2000 is only an interim order staying the operation of the order appealed against. That has no bearing on the instant case. Therefore, there is no embargo to decide the issue involved in this case. The observation in the order of the Tribunal in OA 813/99 was made as the clarificatory order (A-5) was not brought to the notice of the Tribunal. In A-5, it has been clarified that same place means same recruiting unit. For EDBPM/EDSPM, a Division is a Recruiting Unit. Both Ranipuram and Vellap are in the same Division. Therefore, there is no merit in that contention either.

5. Officials respondents contend that there was an earlier request from a senior EDBPM and that he was given a negative reply.

6. We are of the considered view that when requests are received from a working ED Agent for transfer, all such requests have to be considered and only if the ED Agents who applied for transfer are not eligible for appointment to this post in question, recruitment from open market should be resorted to.

7. In the result, this application is disposed of directing the official respondents to consider the request of the applicant as also the requests of other similarly placed ED Agents and only if the applicant or those others if any who have applied are found unsuitable or ineligible for appointment, recruitment from open market as initiated by Annexure A-2 should be resorted to.

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8. OA is disposed of as above without any order as to costs.

Dated 26th July, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

aa.

Annexure referred to in this order:

A-2: True copy of the Memo No.B3/325/II dated 20.1.2000 issued by the 1st respondent.

A-5: True copy of the letter No.17-60/95-ED&TRG dated 28.8.96 of the D.G.Posts, New Delhi.