

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.20/2004

Dated Thursday this the 8th day of January, 2004.

C O R A M

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

Anilnadh Sharma
S/o Devaraj Sharma
Gramin Dak Sevak Mail Deliverer Kanchiyar
Residing at Aryabhavan House
Kanchiyar P.O., Idukki Division.

Applicant

(By advocate Mr.P.C.Sebastian)

Versus

1. The Postmaster General
Central Regional
Kochi - 682 016.
2. The Superintendent of Post Offices
Idukki Division
Thodupuzha P.O.
PIN 685 584.
3. The Superintendent of Post Offices
Changanacherry Division
Changanacherry.
4. The Sub Divisional inspector of Post Offices
Mundakkayam Sub Division
Mundakayyam.
5. The Union of India
Represented by the Secretary to Govt. of India
Ministry of Communications
Department of Posts
New Delhi.

Respondents.

(By advocate Mr.C.Rajendran, SCGSC)

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

O R D E R

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

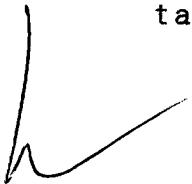
The applicant who is working as Gramin Dak Sevak Mail Deliverer (GDS MD for short) at Kanchiyar Post Office in Idukki Postal Division on a permanent basis with effect from 26.10.1988 submitted a request for appointment by transfer to the existing vacancy of GDS MD, Karikkattor Central Post Office. His request

was rejected by the respondents stating that as per the existing rule there was no provision for transfer of GDS (Annexure A-6). Aggrieved by the said order, the applicant has filed this application seeking the following reliefs:

- (i) To call for the files relating to Annexure A-4 & A-6 and quash them.
- (ii) To declare that applicant is entitled to be considered for appointment by transfer as Gramin Dak Sevak Mail Deliverer, Karikkattoor Central Post Office in the light of the ruling of this Tribunal in OA 1057/99 and other cases.
- (iii) To direct the respondents to consider applicant's request for transfer as GDS Mail Deliverer, Karikkattoor Central Post Office in preference to outsiders.

2. Mr.C.Rajendran, SCGSC, takes notice for the respondents and submits that after the rejection of the applicant's request, A-4 notification was issued to recruit candidates from open market. Learned counsel of the applicant submits that this Tribunal in OA Nos. 45/98 and 1057/99 held the legal position which was upheld by the Hon'ble High Court of Kerala in W.P.No.32757/03 that a GDS seeking appointment by transfer to a different post in terms of D.G.(Posts)'s letter dated 12.9.88 is entitled to be transferred in preference to open market candidates. We are in respectful agreement with the said dictum. We are of the view that A-6 was not issued in good spirit of the dictum laid down and in terms of the rules on this point. It has also the support of the letter issued by the DG (Posts) regarding transfer of GDS from one place to another. Paragraph 3 of the said order of the Department of Posts reads as follows:

"The Chief PMG has ordered that an ED Agent may be given transfer one or two times in his life time provided he is eligible for the post in all respects in accordance with the instructions contained in Dte.'s letter quoted above. Each transfer case of EDAs may be examined and action taken accordingly."



3. Learned counsel of the applicant also produced a copy of the order of this Tribunal in OA No.369/03 (Annexure A-3) in which the same decision had been taken note of.

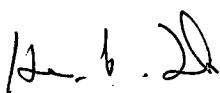
4. Considering the above aspects. we are of the considered view that the applicant has got a case that A-6 order is not in conformity with the legal principles. The learned counsel of the applicant submits that the applicant will be satisfied if a direction is given to the first respondent to consider and dispose of Annexure A-5(a) representation of the applicant dated 17.12.03. Learned counsel for the respondents submits that he has no objection in adopting such a course of action.

5. In the light of the submissions made by the counsel on either side, we direct the first respondent to consider Annexure A-5(a) representation submitted by the applicant and dispose it of with a speaking order to the applicant in the light of rules, precedence and legal position, within one month from the date of receipt of a copy of this order.

6. In the interest of justice, we also direct that operation of Annexure A-4 shall be kept in abeyance till the said representation is disposed of.

7. The OA is disposed of at the admission stage as above. No costs.

Dated 8th January, 2004.



H.P.DAS
ADMINISTRATIVE MEMBER

aa.



K.V.SACHIDANANDAN
JUDICIAL MEMBER