

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 227 of 2007

Wednesday, this the 9th day of January, 2008

C O R A M :

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

K.C. Bindu,
W/o. P. Mohanan,
Gramin Dak Sevak Mail Deliverer,
Edakkad, West Hill P.O., Calicut : 5,
Residing at 'Sivakripa', Kelan Paramba,
Poovattu Paramba PO, Calicut.

... Applicant.

(By Advocate Mr. Shafik M.A.)

v e r s u s

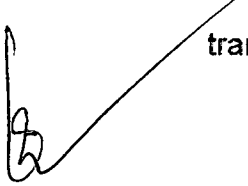
1. Union of India, represented by
Secretary, Department of Posts/
Director General of Posts, New Delhi.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum.
3. The Postmaster Genral,
Northern Region, Calicut - 11.
4. The Senior Superintendent of Post Offices,
Calicut Division, Kallai (PO), Calicut - 3.
5. Ms. Tintu K.P.,
Kattilparambath, Vengeri (PO),
Calicut : 10

... Respondents.

[By Advocate Mr. S. Abhilash, ACGSC (R1-4) and Mr. C.S. Manu (R5)]

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The question in this O.A. is whether rejection of the applicant's case for transfer on medical grounds has affected her vested rights.



2. Brief facts as contained in the synopsis would suffice and the same is as under:-

"The applicant is presently working as GDSMD of Edakkad Post Office. Since she was ailing from Arthritis related ailments, she has sought for a transfer to the vacant post of Peruvayal Sub Office. As per the amendment made to the GDS Rules, the GDS are given a one time transfer on genuine reasons. The applicant has submitted a detailed representation in this regard along with the medical certificate from a Senior Medical Officer of the Government Hospital. However, the third respondent has appointed Vth respondent, a provisionally selected candidate who has not completed three years of service in order to be eligible to be appointed on re-deployment. The third respondent has rejected the request of the applicant on incorrect and vague reasons stating that applicant's case does not come within the scope of amendment to the rules. Aggrieved by the said treatment, the applicant approaches this Hon'ble Tribunal for redressal of her grievances."

3. The following grounds have been raised in the OA:-

(a) The post where the applicant wants to get transferred is filled up by an ineligible candidate.

(b) Annexure A-4, the transfer policy provides for such a transfer and the same has been ignored.

(c) The applicant has health problems and as such she fulfills the conditions for transfer.

(d) Order dated 23rd Feb. 1979 provides for alternative employment in respect of those who are discharged, provided such a provisionally appointed individual has a minimum of 3 years continuous service. However, the respondents have appointed the private respondent though she did not fulfill the requisite service.



4. Respondents have contested the OA. According to them, the authorities had decided to fill up the vacancy at Peruvayal as early as in 2004 by way of redeployment, as such a redeployment is one of the priority items. Again, by seeking the transfer the applicant only tries to enrich herself by having a higher rate of TRCA. (Para 8, 9 and 14 refer).

5. Applicant submitted in the rejoinder that her request for transfer is on account of her health problem and not with a view to enriching her income.

6. Counsel for the applicant argued that the respondents have totally ignored the provisions available for transfer, vide Annexure A-4. It has been contended that twin reasons have been given in the impugned order – (a) the post is filled up by way of redeployment and (b) the case of the applicant is not covered under the provisions of para 2(iv) of Annexure A-4. The counsel argued that both the reasons are untenable. As regards (a) the one who had been appointment is ineligible for such re-deployment as he has not put in three years service. As regards (b) the case of the applicant squarely falls within the provisions of clause 2(iv) of Annexure A-4.

7. Counsel for respondents has relied upon the contentions raised at para 8, 9 and 14 of the counter.

8. Arguments have been heard and documents perused. The respondents have earmarked the post at Peruvayal to be filled up by redeployment. This is a policy decision and hence, the same cannot be questioned by the Tribunal. Counsel for the applicant argued that the private respondent is ineligible as she

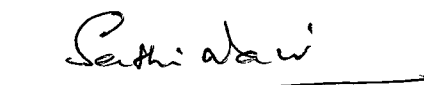
had not put in 3 years' service as per 1979 order, referred to in Ground D. Once the decision has been taken to fill up the post by redeployment, the post is not available for being filled up under transfer. Hence, the applicant cannot have any claim against such. Who could then challenge the action of the respondent in filling up by so called ineligible candidate who has not put in 3 years of service? In case some other eligible individual is waiting for re-deployment and ignoring him the so called ineligible is given the posting, that individual could have a grievance and not the applicant.

9. The applicant's case no doubt falls within the parameters of Annexure A-4 order. However, the place which she needs is not available. Respondents are not correct in holding that she is not covered under the said provisions of Para 2 (iv) of Annexure A-4. Hence, the applicant's case should be considered for some other post which the applicant may prefer. The respondents shall, as and when the applicant applies for such posting elsewhere, shall duly consider and act accordingly.

10 With the above observation, the application is disposed of. No costs.

(Date, the 9th January, 2008)


(Dr. KBS RAJAN)
JUDICIAL MEMBER


(SATHI NAIR)
VICE CHAIRMAN

cvr.