

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 233/ 2007

Wednesday, this the 24th day of September, 2008.

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

M.K.Bhadran,
GDSMC Elavanthitta,
Pathanamthitta Division.Applicant

(By Advocate Mr MR Hariraj)

v.

1. Union of India represented by the Secretary to Department of Posts, Ministry of Communication & Information Technology, New Delhi.
2. Director General of Posts, Department of Posts, New Delhi.
3. Chief Post Master General, Kerala Circle, Thiruvananthapuram.
4. Superintendent of Post Offices, Pathanamthitta.
5. Assistant Superintendent of Post Offices, Pathanamthitta.
6. Sujatha Devi, GDSPM, Chennerkara, Pathanamthitta.Respondents

(By Advocate Mr TPM Ibrahim Khan, SCGSC)

This application having been finally heard on 27.8.2008, the Tribunal on 24.9.2008 delivered the following:

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ORDER**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

The applicant's grievance is that his request for transfer as Gramin Dak Sevak Branch Post Master (EDSBPM for short), Chenneerkara Post Office was denied but the 6th respondent Sujatha Devi was directed to work against that post from 7.3.2007.

2. The applicant has been working as Extra Departmental Mail Carrier (EDMC for short) at Elavanthitta Post Office from 6.5.1987. Vide Annexure A-4 representation dated 1.3.2007 he made a request to the 5th respondent, viz, Assistant Superintendent of Post Office, Pathanamthitta to post him against a vacancy of GDSBPM, Chenneerkara Post Office. In the said representation he has stated that for the last 4 years, he has been undergoing treatment for leg pain and other bodily ailments. He has also produced the Annexure A-3 medical certificate from the General Hospital, Pathanamthitta stating that he is suffering from "Multiple Lipomatosis". He relied upon Annexure A-9 letter dated 17.7.2007 issued by the Department of Posts to all Heads of Circles, according to which, limited transfer facility is available to GDS from a post/unit to another under the existing provision of amended Rule 3 of GDS (Conduct & Employment) Rules 2001 on certain grounds. One of the grounds is "that where the GDS himself/herself is suffering from extreme hardship due to a disease." Transfers in such case are allowed on production of a valid medical certificate from the medical officer of a Government hospital.

3. In the reply statement the official respondents have submitted that the applicant is working as GDSMC, Elavumthitta with effect from 6.5.1987 and the 6th respondent was appointed as GDSMC, Chenneerkara with effect from 12.7.2005 to perform the duty of mail conveyance from Kulanada to Pnangad,

Ulanad, Chenneerkara and back. Consequent on the mechanisation of the mail line with effect from 7.3.2007, the 6th respondent became surplus and she was retrenched. In the meantime, the GDSBPM, Chenneerkara submitted resignation on 28.2.2007 and the same was accepted on 17.4.2007. There were 3 requests for transfer to that post including that of the applicant. However, the 6th respondent being retrenched GDSMC had the first priority for appointment against the vacant post. In this connection, they have relied upon Annexure R-1, DG P&T's letter dated 28.8.2006 regarding transfer of ED officials from one post to another. One of the query and clarification thereto contained in the said letter is as under:

<u>“QUERY</u>	<u>CLARIFICATION</u>
Whether preference can be given to the EDAs for transfer against a vacant ED post working in the same office or whether request of senior EDA should be given preference	<p>(1) The transfer request may be considered in the following orders of preference:</p> <p>(a) Surplus ED agents whose names for deployment appear in the waiting list.</p> <p>(b) If surplus ED agents are not available, the seniormost ED agent, working in the same office and/or the seniormost ED agent in the same recruitment unit may be given preference in that order. The resultant vacancy, if any, can also be offered in the same manner."</p>

They have also relied upon the order of this Tribunal in O.A.410/2006 decided on 15.1.2007. The applicant in the said case was working as GDSMP at Madathara Post Office and he sought transfer as GDSBPM at Mylakkad which became available from 2002. However, without responding to the representation of the applicant, the respondent filled up the post of GDSBPM, Mylakkad. The applicant therein had sent another representation to transfer her as GDSBPM, Velichikala Post Office or against a vacancy arising at Chirakara Post Office or as GDSBPM, Kizhakkaranela. The Tribunal disposed of the O.A. and directed the respondents to consider applicant's request for a transfer to Kizhakkaranela

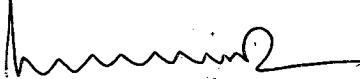
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since they have an open mind in considering such transfers.

4. We have heard Advocate M.R.Hariraj for applicant and Advocate TPM Ibrahim Khan, SCGSC for respondents. It is seen that the applicant's request for transfer as GDSBPM, Chennerkara was not acceded to by the respondents for the reasons that the 6th respondent Sujatha Devi, GDSPM was a retrenched GDS and she had a first priority for such appointment. We, therefore, do not find any illegality in not acceding to her request for transfer as GDSBPM, Chennerkara. The O.A is, therefore, dismissed.

5. There shall be no order as to costs.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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