

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No.256 OF 2006

Wednesday, this the 8th day of August, 2007

CORAM :

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

C.Ramachandran
GDSMD/MC, Neeleswaram PO
Kottarakara Sub Division, Kollam Division
Residing at : Kondodymoola, Valiyavila Puthen Veedu
Padinjattinkara, Kottarakara PO
Kollam : Applicant

(By Advocate Mr. Shafik M.A)

Versus

1. Union of India represented by
Chief Postmaster General
Kerala Circle, Trivandrum - 695 033
2. The Sub Divisional Inspector
Kottarakara Sub Division,
Kollam
3. Smt. Sheeba
GDSSPM, Neeleswaram PO,
Kollam District : Respondents

(By Advocate Mr. P.J.Philip, ACGSC (R1-2))

The application having been heard on 01.08.2007, the Tribunal
on 08.08.2007, delivered the following :

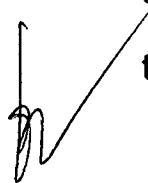
ORDER

HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER

1. The applicant, Shri C. Ramachandran, was initially appointed as
a regular GDSMD/MC, Neeleswaram, after due selection w.e.f. 11-11-
1996, vide Annexure A-1. He belongs to S.C. Category and possesses
requisite qualifications prescribed for the post of GDSSPM too. The

regular incumbent to the post of GDSSPM of that office had superannuated in 2004 and by Annexure A-2 order dated 20-04-2004, the applicant was directed to take charge of the said post (in addition to his own). Accordingly, he was paid the salary of GDSSPM, vide Annexure A-3 salary slip. However, on 06-02-2006 he was asked by the authorities to hand over charge of BPM and the charge was entrusted to the third respondent, who was appointed under the dying in harness scheme. In fact, vacancies in the Kottarakkara Sub Divisions were available whereby the said Respondent No. 3 could have been accommodated, yet, the respondents had chosen to appoint the said respondent at Neeleswaram. The applicant had submitted Annexure A-4 representation to the respondents stating that he, having met with an accident in 2002, would not be in a position to act as GDS MD/MC and since he possesses all the qualifications as required for manning the post of GDSSPM, he be permitted to continue in the said post and also to function as GDS MC. However, there being no response, the applicant moved this Tribunal and by an interim order dated 27-04-2006, the respondents were directed to permit the applicant to take charge of the post of GDS SPM. The applicant has prayed for a direction to the respondents not to appoint any other person and to permit him to continue in the said post of GDSSPM/MC, Neeleswaram.

2. Respondents have contested the O.A. According to them, there was a direction from the Department of Post not to fill up any vacant post of GDS in EDBOs/EDSOs which are multi handed offices, till further orders and it was under such a circumstance that the applicant came to be asked to take charge of the functions of GDSSPM in addition to his own.




Annexures R-1 to R-3 refer. The private respondent, who is the ward of a GDS MP, Ezhukone who died while in service, was recommended for appointment under compassionate appointment scheme against any vacant GDS Post, vide Annexure R-5. Accordingly she was appointed as GDSSPM, Neeleswaram. There is no right vested with the applicant to continue in the post of GDSSPM as he was only asked to carry out the function as a temporary measure. In appointing the third respondent, the respondent has only filled up the post on regular basis and as such, the applicant cannot have any valid grievance against the same. In fact, even if some one else had been regularly appointment, there cannot be any irregularity as the post was to be filled up on regular basis.

3. The applicant has filed his rejoinder, annexing a copy of his further (Annexure A-6) representation and reiterating his earlier contentions as contained in the OA.

4. The Third Respondent has neither filed any counter nor has she represented either in person or through any counsel.

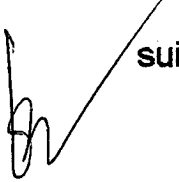
5. Counsel for the applicant argued that the applicant has been functioning since 1996 as GDSMD/MC and as GDSSPM/MC since 2004. And, in 2002 he had met with a scooter accident and as such he may not be in a position to function as GDS MD. He is now 57 years of age and that he possesses all the requisite qualifications to continue to function as GDSSPM and he belongs to SC category. As such, it would be in the interest of justice if he be allowed to function as GDSSPM/MD at



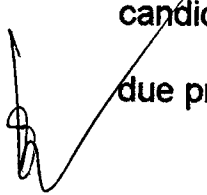
Neeleswaram and the respondents could well appoint some one else as GDSMD, in which event, the office would be manned by minimum number of incumbents. As regards the Private Respondent, the counsel for the applicant submitted that she has been suitably accommodated elsewhere. The counsel submitted that the representation of the applicant vide Annexure A-4 and A-6 are yet to be disposed of. And as such, direction be given to the respondents to consider the same, taking into account the fact that the applicant has been continuing in the same post for over three years now.

6. Counsel for the official respondent confirmed that the third respondent has, after the interim order was passed directing the respondents to permit the applicant to continue to function as GDSSPM, Neeleswaram, been appointed elsewhere. He has however, submitted that the post of GDSSPM is temporarily handled by the applicant.

7. Arguments were heard and documents perused. There is no specific post that has been earmarked for accommodating compassionate appointment candidate. The Third Respondent has now been suitably accommodated elsewhere. The said Respondent has not chosen to file any counter or represent herself either in person or through any counsel. In any event, save her initial appointment at Neeleswaram, there is no vested right to her as a compassionate appointee to insist upon a particular station of posting. From the fact that the said respondent has not chosen defend the case, coupled with the fact that she has already been suitably accommodated, it is felt that the said respondent has no interest in



defending her case. Thus, the question is as to the claim of the applicant. Counsel for the respondent is not incorrect when he submitted that the applicant was appointed only on temporary basis to man the post of GDSSPM. It is always preferable that no post is being kept filled on provisional or temporary basis beyond a reasonable period. Steps for filling up of the vacancy on regular basis should be taken in such cases within a reasonable time. However, the applicant could continue to hold the twin posts as long as the post is filled up on regular basis. Here, of course, one point must be duly considered. In fact, though there is no provision to transfer the applicant from GDSMC to GDSSPM, that too within the same post office, the case of the applicant could well be considered for appointment by transfer, as it is understood that such a provision does exist. Obviously, the rich experience as GDSSPM for more than 3 years by now which the applicant has at his credit, would be a plus point and is beneficial to the respondents when they utilize his services as GDSSPM. Further he being a native of the said place, and having the requisite qualifications for the post of GDSSPM, the request of the applicant for continuing in the post is not unreasonable. He could well be allowed to continue till the respondents take necessary action to fill up the post on regular basis and rules providing for appointment on transfer, he could well be considered for the same and the post of GDS MD could well be considered for being filled up. In the event of such a rule not existing, and if the respondents throw open the vacancy to be filled from outside candidates, the applicant applying for the same, he would be entitled to due preference as per the Rules.



8. The 1st respondent is therefore, directed to consider the case of the applicant in the light of the above and a judicious decision be taken in the matter. Till such time a decision is taken and the same acted upon, the applicant shall be allowed to continue to hold the dual post of GDSSPM as well as GDSMC.

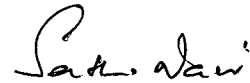
9. The application is disposed of on the above terms.

10. No cost.

Dated, the 8th August, 2007.



K.B.S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

VS